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FOURTH REPORT

OF THE

JUDICIAL COUNCIL OF MASSACHUSETTS

CREATED BY CHAPTER 244 OF THE ACTS OF 1924

Issued Quarterly by the
MASSACHUSETTS BAR ASSOCIATION, 60 State St., Boston, Mass.

INTRODUCTORY STATEMENT

The First Report of the Judicial Council was reprinted in the "Quarterly" for November, 1925, the Second Report in the "Quarterly" for December, 1926, the Third Report in the "Quarterly" for November, 1927. The Fourth Report reprinted herein has been filed with the Governor.

FOURTH REPORT

OF THE

JUDICIAL COUNCIL OF MASSACHUSETTS

CREATED BY CHAPTER 244, ACTS OF 1924

NOVEMBER, 1928

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The Commonwealth of Massachusetts

NOVEMBER 30, 1928.

To His Excellency ALVAN T. FULLER,
Governor of Massachusetts.

In accordance with the provisions of chapter 244 of the General Acts of 1924 we have the honor to transmit the fourth annual report of the Judicial Council.

WILLIAM CALEB LORING,
Honorary Chairman.
ADDISON L. GREEN,
Chairman.
FRANKLIN G. FESSENDEN.
JOSEPH J. CORBETT.
WILLIAM M. PREST.
FRANK A. MILLIKEN.
ROBERT G. DODGE.
FREDERICK W. MANSFIELD.
FRANK W. GRINNELL.

ACTS OF 1924, CHAPTER 244.

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A JUDICIAL COUNCIL
TO MAKE A CONTINUOUS STUDY OF THE ORGANIZATION, PROCEDURE
AND PRACTICE OF THE COURTS.

Be it enacted, etc., as follows:

Chapter two hundred and twenty-one of the General Laws is hereby amended by inserting after section thirty-four, under the heading "Judicial Council," the following three new sections: — *Section 34A.* There shall be a judicial council for the continuous study of the organization, rules and methods of procedure and practice of the judicial system of the commonwealth, the work accomplished, and the results produced by that system and its various parts. Said council shall be composed of the chief justice of the supreme judicial court or some other justice or former justice of that court appointed from time to time by him; the chief justice of the superior court or some other justice or former justice of that court appointed from time to time by him; the judge of the land court or some other judge or former judge of that court appointed from time to time by him; one judge of a probate court in the commonwealth and one justice of a district court in the commonwealth and not more than four members of the bar all to be appointed by the governor, with the advice and consent of the executive council. The appointments by the governor shall be for such periods, not exceeding four years, as he shall determine.

Section 34B. The judicial council shall report annually on or before December first to the governor upon the work of the various branches of the judicial system. Said council may also from time to time submit for the consideration of the justices of the various courts such suggestions in regard to rules of practice and procedure as it may deem advisable.

Section 34C. No member of said council shall receive any compensation for his services, but said council and the several members thereof shall be allowed from the state treasury out of any appropriation made for the purpose such expenses for clerical and other services, travel and incidentals as the governor and council shall approve.

Approved April 12, 1924.

MEMBERS OF THE COUNCIL.

WILLIAM CALEB LORING of Boston, *Honorary Chairman*

ADDISON L. GREEN of Holyoke, *Chairman*

FRANKLIN G. FESSENDEN of Greenfield

WILLIAM M. PREST of Boston

ROBERT G. DODGE of Boston

JOSEPH J. CORBETT of Boston

FRANK A. MILLIKEN of New Bedford

FREDERICK W. MANSFIELD of Boston

FRANK W. GRINNELL of Boston, *Secretary*

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FOURTH REPORT

OF THE

Judicial Council of Massachusetts

His Excellency

ALVAN T. FULLER,

Governor of Massachusetts.

In our last annual report we called attention to the fact that the Superior Court was likely to be swamped with an influx of automobile cases. That fear was only too well founded.

For the five months period, October to February, 1927-1928, there were 4,201 more cases entered in the Superior Court than in the same period October to February, 1926-1927.

Of this increase 4,093, or 97.4 per cent, were motor vehicle cases.

Stated in totals, there were 3,204 motor vehicle cases entered in the Superior Court during the period October to February, 1926-1927, and 7,297 such cases during the same monthly period 1927-1928. In other words, motor vehicle cases increased 127.7 per cent while all other cases increased only 1.6 per cent.

We suggest a careful examination of the table printed below giving the details of these statistics.

Law Entries in Superior Court showing Motor Vehicle Cases as reported to the Chief Justice by Clerks of Court.

	OCT. TO FEB., 1926-27.			OCT. TO FEB., 1927-28.		
	Total.	Motor Vehicle.	Per Cent Motor Vehicle.	Total.	Motor Vehicle.	Per Cent Motor Vehicle.
Barnstable	54	12	22.2	89	26	32.5
Berkshire	82	33	40.2	83	32	38.5
Bristol	414	129	31.1	519	271	52.2
Dukes	26	4	15.3	(no return)		
Essex	666	312	46.8	1,053	736	69.8
Franklin	78	20	25.6	84	39	46.4
Hampden ¹	609	193	31.6	687	308	44.8
Hampshire	54	22	40.7	69	36	52.1
Middlesex	1,585	635	40	2,323	1,369	58.9
Nantucket	8	—	—	8	—	—
Norfolk	430	222	51.6	608	276	45.3
Plymouth ²	261	87	33.3	243	150	61.7
Suffolk	4,615	1,243	26.9	6,921	3,476	50.2
Worcester	843	292	34.6	1,239	575	46.4
	9,725	3,204	32.9	13,926	7,297	52.3

¹ Does not include entries for Feb., 1927, and Feb., 1928.

² Does not include entries for Feb., 1928.

Law entries, 5 mos., Oct., 1926 — Feb., 1927	9,725
Law entries, 5 mos., Oct., 1927 — Feb., 1928	13,926
Increase	4,201
Per cent increase	43.1
Motor Vehicle entries, Oct., 1926 — Feb., 1927	3,204
Motor Vehicle entries, Oct., 1927 — Feb., 1928	7,297
Increase	4,093
Per cent increase	127.7

The Superior Court had on its docket, untried, at the close of the year ending June 30, 1927, 64,923 civil cases, of which 43,399 were jury cases. At the close of the year June 30, 1928, the total number of untried civil cases in this Court was 61,822, of which 45,217 were jury cases. (See Appendix B.)

Heretofore, although motor vehicle cases crowded the calendars, only a modest percentage were actually tried. Defendants, especially the insurance companies, have found it more economical to settle than to contest claims. This attitude obviously relieved the courts of just so much work. It was even thought, or hoped, that the compulsory insurance law would reduce the amount of motor vehicle litigation. This was a mistake; on the contrary the compulsory insurance law has added largely to the number of court entries.

Perhaps this should have been anticipated. The Report of the Attorney-General and the Insurance Commissioner Relative to Accidents caused by the Operation of Motor Vehicles (Senate 322 of 1920) states that the number of motor vehicles then covered by insurance (in 1919) had been estimated before them as low as 30% and as high as 70%. Since the uninsured cars undoubtedly belonged in the main to people of financial irresponsibility, the accidents caused by them would not as a rule result in litigation, because after all the cost and trouble of litigation, a judgment would be uncollectible. That was changed by compulsory insurance. It will be noted that even the lowest estimate of uninsured cars prior to the compulsory act was 30%, so if we assume that the uninsured cars are responsible for their proportionate number of injuries, and that suit would have been brought for those accidents, then there were 9,724 accidents¹, at least, last year that would not, perhaps, have resulted in litigation had the compulsory insurance law not been in effect. Of course, the problem is not susceptible of as accurate a mathematical demonstration as this. But the figures are indicative of what must be expected, under a compulsory law. It is not, however, suggested that this is an argument for repealing the compulsory insurance law.

Since the cost of insurance including damages paid, must ultimately be borne by the insured, this litigation with its verdicts, settlements and expenses, has been reflected in rates. The recent controversy over these rates has brought this whole matter to the attention of the public and there has been a somewhat insistent

¹ There were 32,414 reported motor vehicle accidents involving death or personal injuries in the year 1928.

demand that the insurance companies fight more of their cases. The reason that so many are settled is that, although brought in the Superior Court, the legal right of recovery is so slender, or the actual damages are so small, that they can be adjusted for an amount less than that for which they can be defended. This class of cases (i.e., those that can be settled for less than the cost of trial) is so large that it has a distinctive name, — that of "nuisance cases." They will be referred to later. It is urged by some that these nuisance cases should be rendered unpopular by fighting them. Just what would be the result of such contests it is impossible to say, but it is clear that the present difficult situation would become infinitely more difficult if the insurance companies decide to contest all, or even a majority of their cases, as a matter of policy. At present, probably, not over one case in ten of those entered ever comes to trial, and yet the Superior Court fell substantially behind with its civil calendar during the year ending June 30, 1928. If all the accident cases now on the Suffolk County Superior Court trial list were to be tried, it would take some years to finish that list alone, to say nothing of the cases that would be brought in the meantime.

The seriousness of the present situation is so obvious that it needs no further elucidation. What is the remedy?

The common method of meeting such a difficulty has been to create more judgeships in the Superior Court. This method solves nothing, but merely postpones the solution. This has been our own opinion, and we have hitherto so expressed ourselves. We believe that the bench and bar of Massachusetts must vigorously apply themselves to the problem of working out methods of doing the work of the courts adapted to the increasing business or see the problem solved by laymen. It does not seem possible, considering the interest it is now showing, that the public will rest content with the increasing delay in, and congestion of, our courts and the rising cost of our judicial machinery.

It is generally believed that no small part of this congestion and cost is due to what is called "ambulance chasing," "nuisance cases" and the contingent fee. Such feeling was so strong in the State of New York that the Appellate Division of the Supreme Court in and for the First Judicial District upon petition by the Bar Association of the City of New York, the New York County Lawyers Association and the Bronx Bar Association requesting the Court "to inquire into certain illegal and improper practices," ordered investigation to be made. Report of this investigation

was made to the Court by Mr. Justice Wasservogel under date of September 28, 1928. He finds — "that there exists in this Judicial Department a practice commonly known as 'ambulance chasing,' " and he quotes with approval the language of Mr. Presiding Justice Dowling (matter of Bar Association of City of New York, 222 App. Div. 580, 581):

"Lawyers engaged in the practice referred to, by themselves or through their agents who are sometimes laymen, promise or give to persons sustaining personal injuries some valuable consideration to induce them to employ such lawyers to prosecute claims for damages for their injuries. Such lawyers, through their agents, in some instances, maintain a well-organized and effective system of solicitation by which they obtain prompt information of accidents resulting in personal injuries, from hospital employees, ambulance drivers, taxicab drivers and others who are so situated as to have early knowledge, and they pay them compensation for such information. Solicitation for such business frequently takes place immediately after an injury has been received, often on the same day, in hospitals, in homes and at the bedside of injured persons, while they are in pain or otherwise distressed on account of their injuries."

Justice Wasservogel finds that "cases without merit have been placed upon the calendar for their nuisance value and have contributed to the congestion of the trial term calendars in this department. Furthermore, a comparison of the amounts for which cases were settled with the amount sued for indicates that many actions were brought in the Supreme Court which properly belong in the City or Municipal Court."

He deals at length with the question of contingent fees.

The very pendency of the investigation just referred to in New York, together with the increased filing fee required,¹ seems to have substantially reduced the number of motor vehicle suits brought. In the Municipal Court for the Boroughs of Manhattan and the Bronx the reduction seems to be nearly 25%.

The Report, recently filed, of the Committee of Censors to the Law Association of Philadelphia, reveals a similar situation there.

Justice Wasservogel is of the "opinion that the courts as now manned can readily cope with present calendar conditions and that additional justices are not required in any of the courts of civil jurisdiction in this department."

¹ See footnote on p. 24.

In conclusion he makes certain recommendations to which we refer below.

No such investigation has been made in Massachusetts and we should hesitate to say that the evils exist here, at least, to the same extent as were found to exist either in this particular Judicial Department of the State of New York, or in Philadelphia. Nevertheless, the temptation and the opportunity exist and there is enough that is suspicious about many of these cases and about the great increase in their number recently to put us on our guard. It may not be amiss to see if the measures recommended in New York or Philadelphia or some of them might not be adopted here, in an effort to cut off at their source unworthy and unnecessary suits. Some of these measures will be discussed later.

While it is undoubtedly true that nuisance cases contribute to the congestion of our courts, their elimination will not solve our problem. The number left is, under our present method of dealing with them, bound to swamp the Superior Court. The same pinch is being felt in other states and there are frequent suggestions that all motor vehicle damage cases be taken out of the courts and sent to a commission for prompt and inexpensive disposition. We will refer to that more in detail later on. At present, it is sufficient to call attention to the fact that the public is impatient because of the long delay and great expense both to parties and the Commonwealth attendant upon the present method of disposing of damage suits. It is seeking to find a quick, businesslike method of determining damages free from the delay and cost of long-drawn-out jury trials.

The problem of delay and cost is of great importance, not only to the Commonwealth, but to parties. It is particularly important to poor litigants who are obliged to submit their cases to attorneys on a contingent fee basis and who, therefore, pay, probably, a much larger percentage of the amount recovered, for fees and services than wealthier litigants.

In order that we might be better informed about motor vehicle litigation in the Superior Court, we have tried to have an analysis made of the trial records of our Superior Court, by examination of the records in the various county seats. Unfortunately the statistics are not all obtainable on the same basis and so can not be fully tabulated; but they are very illuminating and are worthy of careful examination. (See App. B.) The intent was to find out the number of cases actually tried to the court and the number tried before juries, the number of all tort cases and the number of motor

vehicle cases, the amount claimed in the writ in each case, the verdict rendered thereunder, etc.

Ten counties in the table below set out have shown the total number of all cases tried, the total number of contract cases, of motor vehicle tort cases, and of other tort cases. While the table is not complete, these counties are a fair cross-section of our Commonwealth and the figures may be taken as fairly representative.

Analysis of Cases Tried in Ten Counties.

	All Cases.	Motor Vehicle Torts.	Other Torts.	Total Torts.
Plymouth	72	37	17	54
Nantucket	1	-	-	-
Middlesex	585	324	129	453
Worcester	219	114	51	165
Norfolk	145	81	24	105
Bristol	120	59	15	74
Barnstable	6	1	1	2
Berkshire	27	11	5	16
Franklin	30	13	4	17
Hampshire	31	12	11	23
	1,236	652	257	909

Per cent tort to all cases, 73.5%.

Per cent motor vehicle to all cases, 52.7%.

Per cent motor vehicle to total tort cases, 71.7%.

From the foregoing it appears that more than half of all the cases tried have been motor vehicle cases, and, without pausing to deal with the exact figures, most of them were tried to a jury. A further examination of these statistics (App. B) shows a surprising variance between the amount claimed in the writ and the verdict rendered, but more than this, it shows that a very large number are of minor financial importance and, except for the excessive amount claimed in the writ, they are within the jurisdiction of the district courts. Middlesex County is a fairly representative county. Of the 121 motor vehicle cases actually tried and resulting in a verdict for the plaintiff there during the year in question (see Appendix B), 60, or nearly 50%, actually involved \$500 or less, while the verdicts in 103 cases, or 85%, were within the jurisdiction of our district courts. Of course, these statistics do not include cases settled after trial began.

In our Third Report we devoted considerable time and space to a study of the amount of business done in all the courts of the Commonwealth and to the approximate cost of the entire system of administering justice, so far as could be obtained from scattered sources, as no adequately clear system of judicial statistics and cost accounting has yet been developed. In the interest of brevity it

is sufficient to note that, including the cost of the Industrial Accident Board, but excluding the cost of jails, parole boards, prisons, etc., the cost of administering justice in this Commonwealth for the year 1926 was \$6,282,139.73.

Since 1926, as a result of salary increases and growing business, it may be assumed without going into details that the present cost is still higher and, with the pressing need for more court house accommodations, that it will continue to increase indefinitely without much corresponding improvement in output unless changes are made to adjust the plant and system to the economic needs of the community and modern business.

It is, of course, clear that the importance of cases can not always be measured by the size of the verdict and that parties are entitled to justice whether the dispute be about \$100 or \$100,000. Nevertheless, we can not believe that the problem of human justice is solved when the method provided delays the solution for months and even years, when the cost to the Commonwealth is not only so great, but so greatly exceeds the amount usually involved in the litigation and especially when the aggrieved party is compelled to pay out for lawyers' fees and expenses a half (or even more) of the amount recovered.

Resuming, then, we have seen that more than half the cases tried in the Superior Court during the period examined were motor vehicle cases and that the percentage is speedily rising. It is well known that it takes far more time and is far more expensive to Commonwealth and parties to try the same case to a jury than it does to try it to the court. It, therefore, seems clear that just as the present problem of delay and congestion in the Superior Court is involved in the number of motor vehicle cases, so also is it involved in the delay and expense of jury trial.

Yet it was only a comparatively short time ago that the motor vehicle problem did not exist. In the days when the horse-drawn vehicle and the pedestrian traveled our highways, collision cases thereon were so rare as to be a negligible part of our court work.

The fundamental difficulty arises from the fact that a new mode of locomotion has arisen within a few years that has rendered our highways places of extreme danger. There were 819,027 motor vehicles registered in Massachusetts during this last year. Besides these, thousands more from other states traveled over our roads. The record of injuries from these vehicles is appalling — 693 deaths, 31,721 personal injury cases during the last year in this Commonwealth. We have no report of the property damage. Such a

record necessarily involves a great many assessments of damages both to person and property.

The reason for this startling record of death and injury is that a new element of risk was introduced into highway travel with the coming of the motor vehicle. The automobile is a dangerous instrumentality that can not be operated without an element of risk unconnected with any former method of highway travel and, to quote the above-named Report of the Attorney-General and Insurance Commissioner (pp. 8, 9), "It seems fair to attribute a not inconsiderable portion of the accidents as caused less by negligence than by the fact that the person is living in a condition of constant risk." A reasonably careful man, perhaps we might say the most careful man known, is not always in the exercise of due care. There are bound to be moments when attention is diverted and vigilance lags. In the days of pedestrians and horse-drawn vehicles, the mind might rest and attention halt without danger; with a motor vehicle a second of inattention may easily result in fatalities.

Must our courts take care of this new and ever-increasing litigation under present methods, or will new methods be found, methods more prompt and efficacious than the present, less expensive to litigants and the Commonwealth? Is this litigation to be excluded from the courts altogether? May it not be retained in our courts, but under some arrangement that will simplify the procedure, and lessen the dilatory, cumbersome and expensive use of a jury in their determination?

In answer to these queries, several distinct plans have been advanced, which we will later briefly summarize. But before doing so, we call attention to the fact that we are primarily dealing with the motor vehicle problem from the standpoint of the courts, that is to say, the litigation resulting from their use, and the effect of this litigation upon the administration of justice in this Commonwealth. Questions of insurance, a state fund, etc., are referred to only as bearing upon that problem.

Plans for Disposing of Motor Vehicle Cases More Promptly and with Less Expense in Court.

Most of the proposals which have been made here, in New York, Philadelphia, or elsewhere have been in the direction of removing from the courts entirely this whole class of motor vehicle accident litigation in the same way that the industrial accident business was removed. If no other solution of the problem can be thought out we think that the bar must face squarely the gradual growth of

sentiment in favor of removing all this work from the courts, and handing it over to a commission of some kind. If the problem is not solved by lawyers then it will be by laymen. Woodrow Wilson, in 1911, in a speech to the Kentucky Bar Association, said:

If the bar associations of this country were to devote themselves, with the great knowledge and ability at their command, to the utter simplification of judicial procedure, to the abolition of technical difficulties and pitfalls, to the removal of every unnecessary form, to the absolute subordination of method to the object sought, they would do a patriotic service, which, if they will not address themselves to it, must be undertaken by laymen and novices.

Mr. Wilson might well have said that in so doing they would render a service to themselves.

It should not be overlooked, that the demand for an administrative commission to settle motor accident claims, means the entire removal of these cases from the courts, and with that removal the practical elimination of the services of the bar in connection with such cases. The fact that some lawyers misbehave does not mean that the services of a reputable bar are not of value to the administration of justice under more prompt and effective procedure. But the growth of the arbitration movement throughout the country indicates the impatience which laymen have for the slow and cumbersome methods of doing business in court.

We do not believe in distributing the judicial functions to different commissions any more than is absolutely necessary. The industrial accident board has been a success and rests upon the special relation of employer and employee which lends itself readily to that form of administrative system for administering a fixed scale of compensation regardless of negligence. When we come to motor vehicle accidents, however, the situation is materially different and we believe that every reasonable experiment should be tried for disposing of these cases promptly by judicial decision with such modern methods as will assist in such prompt disposition. As far as we are aware, no plan has thus far been proposed in any state to deal with this problem effectively *in the courts*.

To this end we submit the following plans which involve no constitutional questions.

1st. As to the Compulsory Insurance Law.

While an injured person has a constitutional right to a jury trial if he sues for damages at common law, he has no constitutional right to any particular form of security for the payment of those damages and, therefore, the legislature may regulate the security

and the method of reaching it and may present an injured person with the alternative of following a specified procedure if he wishes to get the benefit of security, with a prompt hearing, or waiving the right to such security, provided by legislative act, if he prefers to put the community to the great expense and delay of a jury trial. Each of the twelve jurors now receives \$6.00 a day and in order to draw a jury of twelve for any case it is generally necessary to have, at least, thirty-five jurors in attendance (in Suffolk County), each at \$6.00, so that the cost for jurors alone is more than \$200 a day.

We recommend that the compulsory insurance law be amended so that the required insurance shall be against liability to be established by an action commenced in a district court, that no insurance be required against liability in actions commenced in any other court and that the right to reach and apply an insurance policy or any other form of security after thirty days from the entry of judgment in an action for personal injury or property damage caused by a motor vehicle be limited to judgment creditors in actions for personal injury commenced in a district court.

Of course, the district court jurisdictional limits (now limited to \$3,000 and in the Municipal Court of the City of Boston to \$5,000) would have to be removed in these personal injury cases in order that this plan might take effect, but we see no reason why those limits should not be so removed. A serious personal injury case can be tried in a district court as well as one which is not so serious.

Under this plan, we believe a considerable number of the personal injury suits now brought in the Superior Court would be brought in the district court in order to get the benefit of the security and a prompt hearing, and as defendants in many cases do not care for jury trials because of uncertainties and expense, we believe few of them would be removed from the district courts by the defendants. By using this procedure we believe honest plaintiffs would get fair compensation more promptly and with less cost for lawyer's fees and expenses than under the present procedure. At all events, we think this experiment would be decidedly worth trying before we embark on any commission plan of administering this business. Doubts as to the effectiveness of this plan can only be answered by trying it.

The form of statute which we recommend for this experiment is as follows:

An Act to Provide for More Prompt and Inexpensive Trials of Motor Vehicle Accident Cases.

Section 1. Chapter two hundred eighteen of the General Laws as amended in section nineteen by section twelve A of chapter five hundred thirty-two of the acts of nineteen hundred twenty-two and in section one of chapter fifty-seven of the acts of nineteen hundred twenty-eight is hereby further amended by striking out said section nineteen and inserting in place thereof the following: *Section 19.* District courts shall have original jurisdiction concurrent with the superior court of actions of tort for personal injuries, including death at any time resulting therefrom, or for property damage caused by a motor vehicle or its operation, maintenance, control or use, irrespective of the amount of damages demanded and of actions of contract, tort, other than aforesaid, and replevin where the debt or damages demanded or the value of the property alleged to be detained does not exceed three thousand dollars, or, in the municipal court of the city of Boston, five thousand dollars, and also of actions of summary process under chapter two hundred and thirty-nine and proceedings under section forty-one of chapter two hundred and thirty-one.

Section 2. Section thirty-four A¹ of chapter ninety of the General Laws inserted by section two of chapter three hundred forty-six of the acts of nineteen hundred twenty-five and amended by section two of chapter three hundred sixty-eight of the acts of nineteen hundred and twenty-six and further amended by section four of chapter three hundred eighty-one of the acts of nineteen hundred and twenty-eight is hereby further amended by inserting the words "begun in a district court" after the word "actions" in the thirty-sixth line thereof and by inserting the words "in actions begun in a district court to recover damages" after the word "others" in the fifty-fifth line thereof and that section thirty-four D inserted by said chapter three hundred forty-six of the acts of nineteen hundred twenty-five and amended by said section four be further amended by inserting the words "begun in a district court" after the word "actions" in the tenth line thereof.

Section 3. Clause ten of section three of chapter two hundred fourteen and section one hundred thirteen of chapter one hundred seventy-five of the General Laws shall not apply to judgment creditors in actions for personal injuries including death at any time resulting therefrom or property damage arising out of the ownership, operation, maintenance, control or use of a motor vehicle unless such actions were begun in a district court.

Our recommendation and draft act are based upon the assumption that the compulsory insurance law will be continued for the present, at least. But as it is stated in the press that proposals to change our law to a compulsory security plan will be presented to the legislature, we point out that the problem of congestion in the courts would still exist unless provision was made to check it. This idea of providing security on the condition that the less expensive, less cumbersome and less dilatory procedure be followed could be readily adapted to any compulsory security plan, like that

¹ Section 34A is so long that we do not set it out in full. The purpose of the changes is to limit the compulsory insurance to liability in actions in the district courts as already explained.

in New Hampshire, if the Massachusetts Compulsory Insurance Law should be altered in that direction as has been suggested.

By sending these cases into the district courts and thus relieving the Superior Court, we believe that the judges of that court will be able to devote more of their time to the hearing of cases which should be heard by the court, but which owing to the pressure of business are now sent to masters and auditors at a public expense of approximately \$150,000 a year.

In connection with the proposal to send personal injury cases into the district courts, it should be remembered that by far the greater number of cases entered in any court never come to trial or reach a judge at all. As Chief Justice Bolster pointed out, years ago, most cases are settled in some way before they reach a trial, so that the court work is a matter of clerical service. A glance at the relative number of cases entered and cases tried in the courts as shown in the tables in Appendix B will show this. We believe that the public has a right to have such cases which are not tried, disposed of in the court in which the public expense for the clerical work is least. Procedure should be arranged accordingly. In our last report (pp. 19-20), we pointed out that the estimated relative cost per case in a district court was \$4.35 as against \$66.45 per case in the Superior Court. The estimated relative cost per trial was \$45 in a district court as against \$415.44 in the Superior Court.

We believe that plaintiffs with meritorious cases would receive a larger share of the amounts recovered if this plan were adopted.¹ Cases in the district courts can be tried promptly within a few weeks at less expense than in the Superior Court. Jury cases in the Superior Court generally have to wait for a period of fifteen months or more.

2. A Plan to Designate Certain Justices and Special Justices of District Courts to Try Motor Vehicle Civil Cases with Juries in the Superior Court.

To supplement the plan proposed above and to make them more effective in relieving the judges of the Superior Court of motor vehicle cases, we suggest that the chief justice of Massachusetts be authorized to designate fifteen justices, or special justices, of district courts from which number the chief justice of the Superior Court shall be authorized to assign one or more, as needed, to sit

¹ In 1904, the Special Committee on Relations between employer and employee, of which Carroll D. Wright, Henry Sterling and others were members, called attention in its report, p. 39, to the fact that in case a suit follows an accident "the real beneficiaries frequently are not parties to the litigation."

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in the Superior Court, with or without juries, to try such cases arising from motor vehicle accidents as are brought in that Court.

There is much to be said in favor of this plan. A surprising number of cases tried in the Superior Court involve relatively small sums of money as measured by verdicts rendered. In over 20% of the motor vehicle cases tried in Middlesex County in which there were verdicts for the plaintiff during the year ending June 30, 1928, the verdicts were for \$100 or less. An examination of the tables of verdicts in all counties in Appendix B will show the large number of other small verdicts, of varying amounts, within the present jurisdictional limits of the district courts, which the more cumbersome and expensive machinery of a jury trial in the Superior Court is being used to produce, after long delays.

The law involved in motor vehicle cases is fairly well settled, the issues tried are not difficult and the amounts involved in a large percentage of the cases are comparatively small. The district courts hear more motor vehicle cases on the criminal side than the Superior Court, so that many of the justices and special justices are familiar with the questions that are likely to arise. There are seventy-two justices and almost twice that number of special justices in the district courts outside of the central Boston court. We believe that, from this large number, a sufficient number of competent men can be found who can conduct such trials fairly and effectively and thus enable the justices of the Superior Court to try more of the important and difficult equity and contract cases, which should be tried by the court but which are now sent to masters and auditors at great expense to the public and the litigants.

The use of district court judges in the Superior Court has been a success on the criminal side and we have recommended its continuance as vital to the public interest in the administration of the criminal law. Of course, it is not advisable to cripple the district courts either for their present or future work, but we believe the work of the judicial system should be distributed in accordance with some well-balanced plan. We have a Superior Court consisting of thirty-two justices and district courts with eighty-one justices, including those of the Municipal Court of the City of Boston, and about one hundred forty special justices, making a total of over two hundred. It seems a poor arrangement of work to use up the time of the more highly paid judges of the Superior Court in trying the less important and less difficult cases, which many of the district court justices or special justices are competent to try,

and to send to masters and auditors the more difficult cases at a public expense of about \$150,000 a year and more to the litigants. We think this an ineffective method of using the existing judicial force. We believe that without crippling the district courts, a sufficient number of competent men can be designated by the chief justice of Massachusetts so that this work can be arranged and disposed of on a more businesslike basis. Of course, the judges who are called upon to do this work in the Superior Court should be reasonably paid, but as their compensation would continue only during their period of service, it would be the less expensive method of securing the necessary service of men competent for the work. It would also provide a sort of judicial training school, and we believe the work would interest and attract capable members of the bar of judicial capacity to district court work with the possible opportunity of demonstrating judicial qualities which might lead to promotion to the Superior Court.

The plan which we suggest resembles that already adopted by the legislature by § 8 of c. 532 of the acts of 1922, under which the chief justice of Massachusetts designates certain justices of district courts to serve from time to time at the call of the presiding justice in the appellate divisions of the district courts. The plan has worked well. In designating justices and special justices for service in trying motor vehicle cases with juries at the call of the Chief Justice of the Superior Court, the Chief Justice of Massachusetts could doubtless select men so that the work of the appellate divisions would not be interfered with. As in the case of the designations for appellate division service, so the designations for motor vehicle jury service should be made, "for such periods of time as the chief justice may deem advisable." The probable period would be three years, which we understand is the period adopted by the chief justice in designating judges for service on the appellate division. These designations are in no sense appointments to a new office. No new office would be created and accordingly nobody could be appointed to it. This plan is simply one for designating certain judges to deal with certain work from time to time.

It may be objected that in certain counties, at least, there is not enough court room space to accommodate the extra sessions that would result from the proposed plan. As to this objection, it can apply only in a few counties, for many of our court houses are idle, in whole or in part, much of the time. The sittings of district court judges with juries could be assigned to take place when the Superior Court judges were not there. As to the counties that have not

court room space enough, it seems a fair answer to say that in whatever form these cases are disposed of, whether by court or commission, rooms will have to be found for the necessary hearings. If rooms are lacking for doing suitably the work of any court, more should be provided for by hiring court room space if necessary. If the sessions were carefully distributed throughout the year, we have in most counties, at least, ample court rooms, court officers, clerks, libraries, records, all in fact that is needed except the judges. Why not draft judges from the district courts to try motor vehicle cases such as are brought in the Superior Court?

We recommend the following act:—

Section 1. Chapter _____ of the General Laws is hereby amended by inserting after section _____ the following new section,

Section A. A justice or a special justice of a district court, except the Municipal Court of the City of Boston, if designated by the chief justice of the Supreme Judicial Court, shall at the written request of the chief justice of the Superior Court, sit in the Superior Court at the trial or disposition with or without a jury in any part of the Commonwealth of any action arising out of a motor vehicle accident, and during the continuance of such request shall have and exercise all the powers and duties which a justice of the Superior Court has and may exercise in the trial and disposition of such cases; provided that no justice or special justice so sitting shall act in a case in which he has held an inquest in the district court or otherwise has an interest.

Section 2. Sections two, three and four of chapter four hundred sixty-nine of the acts of nineteen hundred and twenty-three are hereby incorporated by reference in this act. In addition to the expense therein provided for, justices sitting in the Superior Court for criminal business under said chapter four hundred sixty-nine of the acts of nineteen hundred twenty-three as heretofore amended and justices and special justices sitting in the Superior Court under this chapter shall be paid in addition to their regular salaries a *per diem* compensation at the rate of _____ dollars.

NOTE.

If this act is adopted with the act already recommended on page 17, no jurisdictional question will arise. If it should be adopted without that act then a clause should be added removing the jurisdictional limits of district courts in actions of tort for personal injuries or property damage caused by a motor vehicle or its operation, in order that the district court justices called to sit in the Superior Court might have jurisdiction of any motor vehicle case regardless of the amount claimed.

If this plan is adopted the present statute allowing district court justices to sit with juries in the Superior Criminal Court for the trial of misdemeanor cases, should be amended by providing that the chief justice of Massachusetts should also designate a certain number of district court justices whom the chief justice of the Superior Court could call upon for such service. The system of using district court justices in the Superior Court would then be uniform both for civil and criminal business.

3. Procedure to Encourage Prompt Informal Trials in the Superior Court.

In our first report, pages 60–62, we recommended the adoption of a standing order for a speedy cause list in the Superior Court

for Suffolk County under which, by an agreement signed by both parties, a prompt hearing might be had before a judge without a jury, without the technical rules of evidence so that the court might admit any evidence which it considered probative, without the right to file interrogatories except in discretion of the court, and without appeal or exceptions on any question except a question of substantive law.

Such a standing order was adopted by the Municipal Court of the City of Boston, but little, if any, use has been made of it as yet. The bar is not yet used to the idea of informal hearings.

By the act of 1920, the legislature adopted the small claims procedure which allowed claims under thirty-five dollars to be disposed of promptly and inexpensively without lawyers, and by statute of 1928, this procedure was applied to claims up to fifty dollars. In spite of some conservative predictions to the contrary, not only has no harm resulted from this change, but the new procedure has fitted naturally into the life of the community and forwarded the cause of justice.

We believe a more effective procedure for the informal hearing of cases in the Superior Court should be adopted, and, if adopted, will gradually become known and used and will help to reduce the congestion, delay, and expense to litigants and to promote justice to a material degree.

The movement for commercial arbitration which has developed to such a marked degree in this country in recent years with the support of the American Arbitration Association and other bodies composed of leading men throughout the country is a sufficient indication of the impatience of the public with some of the methods of the courts. But the bar, particularly in Massachusetts, is and always has been skeptical of the merits of arbitration. Many litigants after a dispute has arisen prefer to have their cases judicially decided by a court.

For reasons already stated, we do not believe that with the rising cost of everything the public will continue, indefinitely, to tolerate the expanding cost of administration of justice under present methods, the most expensive part of which, as we have already pointed out, is the settlement of small cases by the enormously expensive method of jury trial which involves, not only a judge, a court officer and a clerk, with the use of the court room and all its overhead expense, but twelve jurors and additional jurors in attendance at the rate of six dollars a day for each juror for every case thus tried, the total expense per day of a jury trial being esti-

mated at \$500. Competent and experienced judges can try from three to five cases without a jury in the time during which it would ordinarily take them to try one case with a jury. With the rules of evidence waived and the elimination of all appeals and exceptions except upon questions of substantive law, cases could be disposed of still more promptly, and we believe just as fairly, and a hearing before a judge resulting in a judicial decision could be conducted as promptly as a proceeding before an arbitrator. The use of such prompt methods would, we believe, appeal to the public.

We recommend the following act:—

SECTION 1:— In any action at law or suit in equity after issue joined, any party to the proceeding may, by a writing filed in the clerk's office, offer to waive any or all of the following:—

- (1) A trial by jury if it has been claimed.
- (2) The right to file interrogatories except as allowed by the court.
- (3) The rules of evidence to the end that any evidence may be received which the court considers probative.
- (4) The right to appeal from, or take exceptions to any ruling, order, judgment or decree except on a question of substantive law.

A written notice of such offer with a copy thereof shall be served by registered mail, with return receipt requested, upon the other party or his attorney not less than ten days before the trial of the action or suit. If such offer is not rejected by a writing filed in the clerk's office within ten days after such notice or within such further time as the court may on motion allow, such offer shall be deemed to have been accepted and the matters in controversy shall be tried and determined in accordance therewith.

SECTION 2:— All cases for trial under the above section shall be advanced by the court so that they may be tried without delay.

INCREASED FEES.

Entry Fees in the Superior Court.

In our previous reports, we have recommended general increases in entry fees in various courts, particularly the Superior Court. We believe that a material increase in the entry fee in the Superior Court would help to reduce the number of cases, and particularly motor vehicle cases, which are entered there. We do not believe that such an increase would interfere with any deserving case which belonged in the Superior Court. As we have already pointed out with reference to the statistics shown in Appendix B, most of the motor vehicle cases, which are brought in, and which go to trial in, the Superior Court, are in reality cases within the present limited jurisdiction of the district courts. If the district court entry fees are kept low, as they are now, and those in the Superior Court increased, we believe that this will help to send cases into the dis-

trict courts. Judge Wasservogel, in a passage already quoted, has also referred to the increased filing fee in effect since June, 1927, in New York as "substantially" contributing to reduce the number of cases.

Discussion of a Jury Fee.

Increased entry fees affect all litigants, whether they claim a jury trial or not.

Judge Proskauer, in an address as to the business in the New York courts, said, —

To what a shocking level of inconsequentiality our litigation had fallen is evident from the experience following the legislation of last year (1927) increasing the cost of jury trial by \$25. The enactment of this statute was followed by a reduction of 75% in the number of issues filed for jury trial.¹

It has been suggested that a man who demands a jury trial at the expense to the public already pointed out, instead of submitting his case to a judge without a jury, either in the district courts or in the Superior Court, might reasonably be expected to pay an additional fee in the form of a jury fee. The members of the Judicial Council are divided in opinion as to this proposal and simply call attention to it as a possible plan in case it meets with the support of public sentiment in the community. The jury fee is required in various states and from 1805 to 1836 it was required in Massachusetts.

By s. 1 of Chap. 63 of the Acts of 1805 (January session, Chap. 37), an act to increase the fees of grand and petit jurors and witnesses in criminal causes, it was provided that the fees for jurors should be one dollar and twenty-five cents for attendance, and four cents a mile for their travel out and home — "and there shall be paid to the Clerks of said Courts respectively, by the plaintiff or appellant,

¹ EXTRACT FROM NEW YORK CIVIL PRACTICE ACT, SECTION 1557a, AS AMENDED BY L. 1927, CHAPTERS 5 AND 592, AND L. 1928, CHAPTER 861.

"Fees of the clerks of the counties of New York, Richmond, Kings, Bronx and Queens. Except where a greater fee is allowed by another statute for the same service, the clerks of the counties of New York, Richmond, Kings, Bronx and Queens are entitled for the services specified in this section to the following fees, to be paid in advance:

"1. Upon the trial of an action or the hearing upon the merits of a special proceeding, excepting litigated motions and applications for writs, from the party bringing it on, five dollars.

"2. For placing a cause on the special term calendar for the trial of an issue of fact in the supreme court, twenty dollars.

"3. For placing a cause on the trial term calendar in the supreme court, twenty dollars.

"3a. Where the right to a jury trial is duly demanded, twelve dollars for jury fee, to be paid by the party first demanding a jury trial at the time of the filing of written notice of such demand by the party giving notice thereof. This subdivision shall apply to all actions in which a note of issue shall be filed in the counties of New York and Bronx subsequent to the first day of May, nineteen hundred and twenty-seven, and in the counties of Kings,

the sum of Seven Dollars for the trial of each civil action, for the use of the County." This statute was expressly repealed by Chap. 146 of the Revised Statutes. (*Cf.* Act of February 20, 1836.)

A jury of twelve men in 1805 received \$15.00 a day for attendance so that the plaintiff by paying \$7.00 trial fee paid nearly half the expense of the jury. Today the expense each day for a jury of twelve men who sit on a case is \$72.00, not to speak of the additional jurors in attendance.

UNPROFESSIONAL PRACTICES IN CONNECTION WITH MOTOR VEHICLE ACCIDENT LITIGATION.

We have already referred to the report of Judge Wasservogel in the judicial investigation of such practices which was conducted in New York by order of the Appellate Division of the Supreme Court, and also to the report of the Committee of Censors of the Law Association of Philadelphia in regard to similar practices in that city. These reports have been reprinted in the "Massachusetts Law Quarterly" for November, 1928.

To what extent the practice of lawyers in soliciting cases by means of runners or "lead" men or through standing arrangements with doctors, hospital attendants, police officers or others on a contingent and split-fee basis is followed in Massachusetts, we have no means of knowing. To what extent the practice of presenting fictitious claims, exaggerated claims, or claims for nervous shock to cover property damage in the hope of securing settlements from the insurance companies is followed here, we also have no means of knowing. We understand that these subjects are, to some extent, under investigation, at present, by the attorney-general as a result of the statements made by the former insurance commissioner

Queens and Richmond subsequent to the first day of May, nineteen hundred and twenty-eight.

"3b. In the county of New York or Bronx, in all actions triable by jury in which a note of issue shall have been filed on or before the first day of May, nineteen hundred and twenty-seven, and which actions have not appeared upon any day calendar of the supreme court on or before the first day of May, nineteen hundred and twenty-seven, the plaintiff shall pay a jury fee of twelve dollars, and such action shall not be placed upon a day calendar for jury cases until after such payment shall have been made.

"3c. In the counties of Kings, Queens or Richmond, in all actions triable by jury in which a note of issue shall have been filed on or before the first day of May, nineteen hundred and twenty-eight, and which actions have not appeared upon any day calendar of the supreme court on or before the first day of May, nineteen hundred and twenty-eight, the plaintiff shall pay a jury fee of twelve dollars, and such action shall not be placed upon a day calendar for jury cases until after such payment shall have been made."

(See Clevenger's New York Practice Manual for 1928, p. 700-o.)

The act of 1927 applied the jury fee to the counties of New York and Bronx, and then, a year after they extended it to the three other counties of Kings, Queens and Richmond.

in connection with the proposed increase in insurance rates. There have been no investigations here like those in New York, Philadelphia or Milwaukee; on the other hand, human nature is very much the same in different places and in any large city the same opportunities are apt to lead some members of the bar to forget proper professional standards and take advantage of such opportunities.

At all events, it is common report that a 50-50 division between the lawyer and the client of the proceeds of a suit, whether obtained by settlement or verdict, is more or less common, and sometimes an even larger proportion is retained by the lawyer to cover doctors' fees and other expenses. With the opportunities for collusion with insurance adjusters, physicians, and others, it is sufficiently probable that objectionable practices are followed here to such an extent as to make it worth while to take action to prevent them. In view of the charges made by the insurance commissioner, we think that the public expects the legislature, the courts and the bar to take such reasonable measures as may be needed to check in future such unprofessional practices as may exist.

In our second report (pp. 29 and 108) at the request of the legislature, we discussed methods of dealing with cases of professional misconduct, and recommended an act. This act is again recommended in the third report and in this report (see p. 48).

In considering what should be done, it is important first to call attention to the fact that the law of Massachusetts differs somewhat from that of New York or Pennsylvania in regard to some of these practices. In the first place, the common law of champerty and maintenance has never been changed by statute in Massachusetts but is still in force, as pointed out by Chief Justice Rugg in *Holdsworth v. Healy*, 249 Mass. 436.

Other leading cases are, *Hadlock v. Brooks*, 178 Mass. 428; *Blaisdell v. Ahern*, 144 Mass. 393 and *Ackert v. Barker*, 131 Mass. 436.

But the law on this subject is in an unsatisfactory state and is, we believe, commonly misunderstood by the bar. The following passage from the opinion in *Hadlock v. Brooks*, above cited, at pages 432-433, illustrates the reason for what we believe to be the common misunderstanding: —

As between an attorney at law and his client it is of the essence of champerty that the attorney, having no previous interest to justify him, upon recovery is to have as his own some part of the thing recovered, or some profit out of it. *Thurs-ton v. Percival*, 1 Pick. 415. *Lathrop v. Amherst Bank*, 9 Met. 489. *Lancy v. Havender*, 146 Mass. 615. But an agreement that one not previously interested

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and who agrees to prosecute a suit, upon recovery shall have a share of the thing recovered is not for that reason alone champertous. The bargain to be illegal must have the further element that the attorney's services shall not constitute a debt due him from the client, and that his prospective share is to be the only compensation which the attorney shall receive. If in effect he "agreed to look for his compensation to that alone which might be recovered, and thus to make his pay depend upon his success" the bargain is champertous and void. *Ackert v. Barker*, 131 Mass. 436, 438. "Where the right to compensation is not confined to an interest in the thing recovered, but gives a right of action against the party," the agreement is not champertous. *Blaisdell v. Ahern*, 144 Mass. 393, 395. See *Scott v. Harmon*, 109 Mass. 237.

But the contract may be illegal without stipulating in terms that compensation is to be solely by way of an interest in the thing to be recovered. That element of illegality may be inferred from an agreement to prosecute at one's own expense and risk unless successful. *Belding v. Smythe*, 138 Mass. 530. See *Williams v. Fowle*, 132 Mass. 385, 388. As was held in *Blaisdell v. Ahern*, there may be circumstances in which the attorney may lawfully agree to give his services without charge, if the suit should not be successful, and if in case of success, and not otherwise, the attorney's fees are to constitute a debt due from the client and give a right of action against him to recover them, so that the attorney's right is not confined to an interest in the thing recovered, it is immaterial that the avails of the suit or a part of them are pledged as security, or that such avails are the means and the security on which the attorney relies for payment. And as was also said in *Blaisdell v. Ahern*, there may be circumstances in which an agreement by an attorney to give his services in the prosecution of a suit with the understanding that they are to be free unless the suit is successful may partake of the worst evils of maintenance.

Turning now to the case of *Blaisdell v. Ahern*, 144 Mass. 393, referred to above, we find in that case an agreement that "said counsel and attorney are to depend upon the contingency of success for the fees for all services rendered in and about said prosecution" and "shall in view of the uncertainty of the result in their payment be entitled to very large and liberal fees, in no event to exceed fifty per cent of the amount collected by them and that we will furnish all the evidence and pay all the actual costs in the prosecution of said claims." This agreement was held to be legal and enforceable as "there was no agreement" that the lawyer "should receive a share of the amount recovered as compensation for his services. It is immaterial that the avails of the suit were the means or security upon which he relied for payment if it was to be a debt due from the defendants."

The distinction between a legal and an illegal agreement appears slight to laymen and to many lawyers. In any event it is probable that in many cases there is no very definite agreement between the lawyer and his client in the beginning or, if there is an agreement, it is in rather casual language. The principal abuse probably

arises from the practice of exacting from the client, at the end of the case, a 50-50 division, or some percentage which largely exceeds the value of any services rendered, with possible additional payments to medical men and others, out of the client's share.

G. L., c. 220, § 8 provides that

"No attorney, justice of the peace, sheriff, deputy sheriff, or constable, shall, directly or indirectly, buy or be interested in buying, or, directly or indirectly, lend or advance or agree to lend or advance any money or other goods, or give or promise any valuable consideration whatever to any person, as an inducement to place, or in consideration of having placed, in the hands of any person any bond, note, book debt or right of action for collection, with intent to make for himself any gain from the fees arising from such collection by legal proceedings. Violations of this section shall be punished by a fine of not less than twenty nor more than five hundred dollars."

G. L., c. 221 provides

§ 43. "No attorney-at-law shall, through any runner, agent, or person, who is employed by him, solicit a person to employ him to present a claim for damages, or to prosecute an action to enforce such a claim, and any money, fee, commission, profitable employment or other personal advantage in consideration of his employing such attorney on behalf of a person having a claim for damages, or soliciting or procuring the person who has such claim to employ such attorney to present such claim or to prosecute an action for the enforcement thereof. No attorney shall appear in any suit for the enforcement of a claim in connection with which he has violated this section.

§ 44. "If it appears to the satisfaction of the court that an attorney whose appearance has been entered in any suit has in connection therewith violated the preceding section, such attorney may, in the discretion of the court, be disqualified from further acting in said suit, and the court may make an order for continuance, or for another and speedy trial, or such other order for the protection of the interests of the parties, as justice may require, and may deny the right to collect costs wholly or in part to any party to the suit."

Under these statutes in cases thus solicited, the attorney has no legal right to any compensation whatever. This is probably not generally known to clients.

The question is how to reach that sort of practice.

Another generally forgotten law is section 51 of the same chapter which provides,—

Section 51. An attorney at law who unreasonably neglects to pay over money collected by him for and in behalf of a client, when demanded by the client, shall forfeit to such client five times the lawful interest of the money from the time of the demand.

With this background of law, the problem is to think out some

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practical method of enforcing the law and discouraging objectionable practices.

In the New York report referred to, certain statutory changes are recommended. In the Philadelphia report, it is recommended that the matter should be dealt with by rules of court as far as possible.

When the rule-making power is sufficiently broad it seems better that the courts should accept the responsibility and make appropriate rules. Attorneys at law are officers of the court. (*See In re Casey, 211 Mass.*) As such, they are subject to judicial regulation. Furthermore, G. L., c. 213, § 3, specifically provides that the Superior Court may make

... "rules consistent with law for regulating the practice and conducting the business of such courts . . . for the following purposes . . . discouraging negligence and deceit; preventing delay; securing parties from being misled; placing the party not in fault as nearly as possible in the condition in which he would have been if no mistake had been made; . . . remedying abuses and imperfections in practice and diminishing costs.

These clauses in the statutes supplemented by the inherent power of the court to take action to prevent its officers from abusing their office and misusing the machinery of justice, seem sufficiently broad to authorize the adoption of reasonable rules that may be needed. There are no adequate rules now.

We think the suggestion that in personal injury cases the injured person should be expected to sign the declaration and give his address may be a simple and proper check on possible abuses. We recommend a rule to this effect.

As Mr. Justice Wasservogel suggests, the common practice of a 50-50 division of the proceeds of a verdict or settlement between the client and the lawyer provides an excessive share for the lawyer, and the contingent compensation should be brought more effectively under the supervision of the court.

Many of the complaints before grievance committees of bar associations relate to overcharges and there should be some more effective method of bringing such cases before the court by a summary proceeding.

We suggest that provision be made by appropriate rules in the Superior Court and in the district courts for affording clients, so far as possible, summary relief against excessive or illegal charges, whether for services or expenses, and furnishing procedure for the prompt enforcement of rights under G. L., c. 221, § 51 (above quoted).

We also suggest that there should be a rule or, if necessary, a statute, providing that *in cases of personal injuries* no attorney shall deduct, whether by previous agreement or not, more than an amount equal to $33\frac{1}{3}$ per cent of the amount recovered by settlement or otherwise for compensation and expenses, except with the approval of the court under special circumstances shown, on motion of the attorney after notice to the client.

The reason for proposing such a rule or statute is that suggested by Mr. Justice Wasservogel, that many of these injured persons need judicial protection in the matter of the deductions made by the lawyer from the amount recovered. The amount so recovered is held by the lawyer for the benefit of his client for whom it was recovered. In the case of other fiduciaries, such as executors, trustees, and others, the charges for services and expenses are set out in an account which is submitted to the court. While we believe it to be both unnecessary and impracticable in Massachusetts to require the court to supervise the deductions by attorneys from the amounts recovered in every personal injury case, we think it is possible to provide some limit which shall not be exceeded without leave of court under special circumstances to be shown to the court.¹

DISCUSSION OF THE MORE RADICAL CHANGES PROPOSED.

We take it for granted that commissions are to be avoided, if possible, and that the citizens of Massachusetts wish, if it is practicable, to dispose of their controversies before our existing courts. With this thought in mind, we have recommended the foregoing experiments which may be tried now by minor changes; but we think we should add some discussion of other more radical proposals in order that various aspects of the problem may appear.

Commission Plans.

The most drastic commission plan proposed is to remove all these cases from the courts, and place them in the hands of a commission, something after the nature of the Industrial Accident Board. This plan has been to some extent considered in the "Report of the Attorney General and the Insurance Commissioner relative to accidents caused by the operation of Motor Vehicles under Chapter 59, Resolves of 1919," being Senate No. 322 for the year 1920.

It is argued in favor of this plan (waiving for the moment con-

¹ The Workmen's Compensation Act, G. L., c. 152, § 13, provides that the fees of attorneys and physicians and the charges of hospitals are subject to supervision.

stitutional questions) that such a commission, say of five, would cost less than an equal number of Superior Court judges; that they would be, or become, experts in this type of damage cases; that being untrammelled by rules of evidence and court formality they could and would get quickly and accurately to the facts of the various cases, to the legal responsibilities of the parties and the damages sustained; that their findings would be prompt, substantial justice would be done all parties, and that parties would save a large part of the expense now paid in lawyers' fees, for experts and other costs and that a far greater proportion of damages awarded would go to plaintiff than at present. It is furthermore argued in its behalf, that this plan would strike at the evils of "ambulance chasing" and the contingent fee, as there would be no incentive to bring "nuisance cases" and attorneys' fees would be subject to the discretion of the commission. Appeal on matters of law would be to the Supreme Judicial Court.

This plan involves a constitutional question. In actions for damages at common law, the parties have a right to trial by jury. To meet this difficulty various suggestions have been made, — one that a waiver of this right of jury trial be exacted as a prerequisite to the granting of registration of a vehicle or license to operate. While it is true that the legislature has and exercises a right to exclude from the highways vehicles that do not conform to its specifications for safety, and operators who are not suitable to entrust with the privilege of driving, is it a reasonable exercise of that right to use it for a purpose that has nothing to do with the machine or its equipment, with the capacity or safety of the driver, — the real purpose having to do with the cost and delay of litigation and the congestion of cases in our courts?

Even if constitutional, such a waiver would not affect a large amount of litigation. An examination of the entries of motor vehicle cases brought in Essex County, in October, November, December, 1927, and January and February, 1928, shows (see Appendix B) that out of a total of 652 cases 475, or 73%, would not be affected by such a waiver.¹

In order to avoid this latter difficulty, it is suggested that the Commonwealth go a step further and provide that a waiver of a right of jury trial in case of an accident of this kind upon the highway be a prerequisite to the right to its use by any one on foot,

¹ Pedestrians, bicycles, etc. (paragraph D), 221; automobilists out of the state, 28; guests, 113; members of family, 107; servants or employees, 4.

or in any kind of conveyance. This does not leave the constitutional difficulty in any better situation.

Another suggestion is that the common law and statutory rights of action for personal and property injury, as the result of motor vehicle accidents on the highways, be abolished by legislative action, and that in place thereof a right to recover under the administration of a commission, or a court of claims, out of a fund, either secured by ordinary insurance, or established by the state, be substituted. It is doubtful if this suggestion solves the constitutional problem. A distinguished committee of the New York bench and bar, known as the "Calendar Committee," has stated that "it may not be possible to frame a desirable plan without amending the Constitution."

It should not be forgotten that the Massachusetts Workmen's Compensation Act (which is often relied on as a precedent in this connection) does not, as a matter of law, deprive either employer or employee of his right to a jury trial if he does not wish to waive that right on entering the relation of employer or employee. The act merely provides an alternate method of obtaining compensation which may be and generally is accepted and is made attractive to both parties.

But, assuming for a moment that a way may be found whereby all claims for injuries arising from damages received by or through motor vehicles, while operating on the highways of the state, may be determined and collected without a jury trial, although the parties or one of them demand it, there are further problems to be considered.

Are damages to be awarded to everybody who is injured in person and/or in property, to the one who causes the accident as well as to the one who suffers it? Is the element of negligence to be disregarded?

The arguments in favor of disregarding negligence, as a ground of recovery, are well stated by Mr. Weld A. Rollins, in a memorandum furnished by him to the Attorney General in 1919, and from which we venture to quote. He says: "There is a substantial amount of risk in large numbers of motor vehicles using the highways. However careful they all may be, they will inevitably cause some damage to others. If they wish to use the highways for a purpose hazardous to others, there is no reason why they should not be required to pay for the harm done. There may not be negligence, but there is hazard, and hazard ought to serve for as good a basis of aggregate responsibility as negligence." An

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act submitted by Mr. Rollins was printed for reference but not recommended in the appendix to the Report of the Attorney General and the Insurance Commissioner in 1919 already referred to.

But if negligence is to be disregarded in the award of damages where is the money coming from to pay them? The sum required would be enormous; insurance rates would be prohibitive. Accordingly some form of state fund is suggested in such plans.

Furthermore, there is something repellent in the suggestion that one who drives carelessly along the highway and thus kills or maims an innocent wayfarer, should have compensation for such injury or loss as he sustains in the accident he occasions. It is putting a premium upon carelessness. It amounts to handing over to the licensee or registrant a dangerous instrumentality, at the same time telling him that it will cost him nothing if, in its careless handling, he injures it or himself while killing or maiming some one along the highway. The situation here is unlike that which arises in the Workmen's Compensation cases. There the workman's injuries are often the result of falls, mistakes in the use of machinery, slipping on the floor, etc., wherein or whereby he injures himself. The cases are rare where he actually brings injury or loss upon another and the cases are quite rare when he receives compensation for an accident wherein he has in fact injured another person.

In order that the proposed Casualty Commission be wholly effective in the sense that all motor vehicle cases be taken out of court, the commission must be an administrative body; for to create a judicial body is only to create another court. An administrative body means that the work of the commission be substantially limited to ascertaining whether the accident falls within certain defined classes and to awarding as compensation therefor a certain prescribed amount, because if the so-called commission is to sit to determine the question of responsibility under the existing law of negligence, and/or to determine the cash value in damages of the injuries sustained according to the existing rules of common law, then that which in reality has been done is the establishment of another court.

It seems fairly certain that if the proposed commission is to function as an administrative, as distinguished from a judicial body, and if all motor vehicle personal injury cases are to be removed from the courts, that

- (a) the constitutional right of jury trial must be eliminated and an advisory

opinion of the Supreme Judicial Court obtained as to the validity of any proposed method of doing this;¹

(b) negligence as the basis of compensation must be abolished;

(c) a fixed scale of compensation for specific injuries and disabilities must be established, such as will bring the amount to be annually awarded within the fair limits that the motor vehicle operators of the state should be asked to pay.

It should be noted that motor vehicle cases include a large number of property damage cases not now covered by the compulsory insurance. If the proposed commission is to be 100% effective in clearing the courts of motor vehicle cases, then the compulsory insurance should be made to cover property losses, and damages therefor should be awarded by the commission. It seems hardly feasible to establish a fixed scale of compensation for such damages and therefore, to that extent at least, the commission would have to determine damages according to the principles of the common law and in doing so would be exercising judicial rather than administrative functions.

Moreover, as in most collisions of automobiles there is both personal and property damage, if the personal injury cases were sent to a commission and the property damage cases left with the courts, then two tribunals would be dealing with the same accident.

Assuming that the constitutional difficulty can not be met, can a commission still function in a manner beneficial to the taxpayer and to the litigant? Some think that it can, and it is suggested that if an administrative body is created with the power to promptly investigate accidents and make awards for damages, the economy of its procedure and the despatch of its business would attract such a large percentage of motor casualty cases that those left in the courts would cease to be a problem. He who sought relief before the commission would thereby waive his jury. It is assumed that most defendants would not ask for a jury. This plan, and the one next following, presupposes a fixed scale of compensation for specific injuries to be paid without regard to the negligence, some objections to which have been already noted. Taking a leaf out of the Workman's Compensation Act, it is proposed, as far as possible, to make it attractive to parties to seek relief before the commission by making it unattractive for them to seek relief before the courts. This can be done to some extent by legislation relative to burden of proof in respect to due care and negligence, assumption

¹ Cf. Opinion of Justices, 209 Mass. 607; Judge Lowell's discussion in Report of the Commission on Compensation for Industrial Accidents in 1912, pp. 95-108; N. Y. Central R. R. Co. v. White, 243 U. S. 188; Hess v. Pawloski, 274 U. S. 352; Mountain Timber Co. v. Washington, 243 U. S. 219, 235.

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of the risk, agency, etc. As we have pointed out, there seems to be no doubt that compulsory insurance may be written so as to protect those plaintiffs only who waive their right to a jury and seek compensation from the commission.

A modification or, rather, an extension of the preceding proposition is this:

Enact a compulsory insurance law providing, and limited to, a fixed scale of compensation for specified injuries and disabilities; provide that all claims for damages resulting from motor vehicle injuries must be brought before the commission, that if the petitioner choose he may waive a jury and that if he is to have recourse to the compulsory insurance policy of the defendant he must waive a jury. If the defendant does not ask for a jury within a specified time then he will be taken to have waived it. In cases where the jury is waived, the commission will act as an administrative body and their finding will end the case except on questions of law. In cases where the jury is not waived, the report of the commission is to have the weight of an auditor's report in case the party asking for a jury decides to transfer it to the Superior Court. In the event that the finding of the jury is not more favorable to the appealing party than the finding of the commission, then he must pay the costs in the Superior Court.

There is much to be said in favor of this plan. Such a commission could avail itself of the police and other reports, and could operate in unison with the department now investigating motor vehicle accidents. It could operate more speedily and summarily than a court. It is urged that defendants, as a class, would prefer to abide by its decisions rather than to risk the vicissitudes of a jury trial and that plaintiffs, whatever their first impression might be, would, upon second thought, prefer to accept its awards, which would come to them substantially intact rather than to incur the delay and cost of a jury trial, so that in fact and in practice but a small percentage of motor vehicle damage cases would reach the Superior Court, and these the court could easily deal with. Whatever the final result to the Commonwealth the finding of such a commission would be far less expensive to parties and would be rendered much more promptly than a verdict of a jury. It has, however, some of the faults of the old civil appeal system of the district courts with double trials on the facts, which was discarded in the Boston court in 1912, and in the other district courts in 1922, in the Land Court in 1910, and in the probate courts in 1919.

Also, under this plan no motor vehicle operators could know

whether in the event of accident he would be liable under his compulsory insurance or at common law. Many, if not most, persons, therefore, would want and get a policy containing an indemnity provision. Plaintiffs with cases dubious as to liability, or plaintiffs seeking extravagant damages might, therefore, prefer to rely upon the chances of a jury trial, confident of the solvency of the defendant, or relying upon the fact that few men care to have a judgment hanging over them and that the chance that they would release the insurance company from its obligation to indemnify them would be negligible. Furthermore, in those cases where the evidence of liability was strong and the probable or possible common law damages in excess of the limited amount prescribed in the compulsory insurance rate of compensation, it is reasonable to assume that they would insist upon their common law rights and ask for a jury, and thus bring about the double trial weakness of the old appeal system already mentioned.

What effect the necessity for double insurance would have upon rates, we are not sufficiently advised to say, but it raises a serious question.

It seems clear, also, that the commission would function in a dual capacity. In the cases where juries were waived they would function as an administrative body and make their findings without regard to the common law, awarding damages according to the provisions of the act. But in cases where a jury was demanded, and where their finding would have the weight of an auditor's report, they would be obliged to proceed under the common law.

Considering the number of accidents occurring each year, and the number of cases that would have to go before the commission, and remembering the dual nature of its work, it is difficult to say how many commissioners, how great a force of clerks and assistants would be required and how much money the taxpayers of the Commonwealth would have to pay to make the plan effective.

So far as the commission is called upon to find liability and assess damages at common law, it is in reality another court. And the plan of multiplying courts seems a mistaken one. As already stated we think we should, at least, try plans for the more effective use of the courts which we have, before creating either new ones or commissions.

Therefore it seems to us that, although there is much to be said in favor of this plan, there is grave doubt whether it is a solution of the problem.

The Judicial Council does not profess to have set out all the

varieties of a commission plan that have, or can be, proposed, nor does it profess to have stated all the arguments that can be advanced for or against the various commission plans mentioned. It has felt it to be its duty to call attention to some of their possibilities, and to some of the grave difficulties, constitutional and otherwise, that stand in their way.

In any event, if the Legislature feels that an administrative board or state insurance fund of any kind along any such lines as these suggested should be further studied then we suggest that a special commission be appointed to investigate and report. They are very large problems requiring special knowledge of insurance rates and risks and involving questions of general state policy as to which there are very marked disagreements, and require more time and study than the Judicial Council can give and still do justice to its other work. Our problems are primarily those of the judicial system and its administration and our discussion of these matters, as already explained, is merely incidental to the work for which the Judicial Council was created.

It goes without saying that the opinion of the Supreme Judicial Court should be taken upon the constitutionality of any plan that involves the deprivation of a citizen's right to a jury trial.

If a commission were created it would naturally include in its investigation, the New Hampshire experiment, already referred to, of compulsory security, as distinguished from compulsory insurance. That plan has now passed from theory to practice and the experience under it since June, 1927, may be instructive. The Connecticut law should also be studied.

In the meantime our courts are filling up with these motor vehicle cases in which the jury trials are delaying all other business, and litigation from air vehicle accidents is already beginning to appear in court. While more radical plans are being discussed we believe something should be done along the lines which we have recommended.

PETTY MOTOR VEHICLE OFFENCES.

In a special report in March, 1928 (reprinted in Appendix A of this report), we recommended an act which would "strike at the source" of the congestion of the criminal courts resulting from petty motor vehicle cases. The act proposed was revised after the report in the light of helpful criticisms and suggestions made by various persons, especially Judge Heady, of Springfield, Chief Justice Bolster, of the Boston Municipal Court, and Mr. Lord, the

Clerk of that court for criminal business. The act as revised was reported by the Judiciary Committee, passed the House and went to a third reading in the Senate only to be defeated at the engrossment stage. We believe this defeat was due in large part to the provision that prosecutions of these petty offences should be in the discretion of the Registrar of Motor Vehicles. This provision was not in our original draft submitted in our special report which is reprinted in Appendix A. We have revised the act so that Section 1 leaves this discretion with the local police authorities and we hope that the act thus revised may be adopted at the next session, as we consider it of great public importance. The act is approved by the Registrar of Motor Vehicles.

While each section could be adopted separately and would be an improvement, the reason for combining them in one bill is that there are two classes of petty motor vehicle offenses and they require separate treatment.

These two classes are,—

First, violations of motor vehicle laws passed by the legislature which are all reported to the Registrar of Motor Vehicles and which he can now deal with under his power to suspend or revoke the license or registration regardless of the action of any court and subject only to an appeal to the Division of Highways. This class, to which the proposed Section 1 applies, does *not* include any of the more serious offences involving really criminal elements but is confined to such offences covered by Chapter 90 of the General Laws as are punishable only by a fine and not by imprisonment. Very many, if not most of these cases, such as driving with the rear light out, etc., are the result merely of accident or varying degrees of carelessness rather than of a deliberate or persistent intention to violate the law. To treat this sort of thing as a crime seems to us a very serious mistake which causes widespread disrespect for law in the minds of many of our citizens.

There is no occasion for bringing such cases into court at all. They are all matters for administrative control by the registrar without wasting the time of judges, policemen, court officers, witnesses and parties by a criminal trial at the expense of the public and the delay of other legitimate court business. There is now a needless and wasteful duplication of work, for the registrar is expected to consider all such cases regardless of an acquittal or conviction by a court. The most effective check on such violations is the control over the license or registration. The danger of suspension or revocation of license or registration is far more effective

than any fine. The figures given in the special report in Appendix A show that in the year 1927 the registrar revoked or suspended 31,252, of which 14,267 were required by law and the remaining 16,985 were the result of the registrar's discretion. And yet out of the whole number of 16,985 there were only 64 appeals to the Division of Highways.

These figures indicate that this administrative method works fairly and we see no reason why this whole class of offences punishable by fine should not be taken out of the courts entirely and dealt with through control of the license and registration unless in a particular case the local police authorities or the registrar finds some special reason for a court proceeding.

It is for this reason that we recommend by Section 1 that such offences *may* be reported to the registrar with recommendation instead of being taken to court. There is nothing new about this idea. It is in actual operation today in some places, such as Fall River and New Bedford, where, by co-operation of the local police and the registrar, warnings are given instead of a summons to court, and *the plan works*. A striking illustration of the difference between administrative control and the limited possibilities of judicial control is afforded by cases involving defects in the car. If a tail light is out, or a brake out of order, as may often be the case without the knowledge of the driver or owner, he may be summoned to court and *finned* and may then go out and drive the car in the same defective condition until he is caught again, when the same performance may be repeated. It is a weak system. It should be dealt with simply by notice from the registrar to appear at some specified place with the car *repaired* for inspection and a warning to be careful in future. So, also, with other petty offences a warning, to be followed in the case of persistent violators with a suspension, would be a much greater protection for the public safety and would eliminate the present wasteful duplication of work and unjust annoyance of citizens by drafting them into the criminal court.

We have already referred to the objection to giving the registrar power to decide whether or not a case should be taken to court. But we have changed this in the draft now proposed and left that question to the local police authorities. The registrar now has the power to apply the more serious penalty of suspension or revocation regardless of court action so that the whole court process may be useless. Section 1, as now drawn, gives the registrar no more power than he has today. In practice, we believe Section 1 would

probably eliminate court proceedings in a large proportion of cases of these petty offences to the great benefit of the public. The need of this section is emphasized by the fact that in the Municipal Court of the City of Boston, in the year ending Sept. 30, 1928, there were 3,916 cases of automobile law violations, of which 339 were appealed, as against 1,223 cases, and 121 appeals two years ago.

Second, coming now to the second class of petty offences, these are violations of the local traffic regulations such as parking, etc., which are not reported to the Registrar of Motor Vehicles and with which his office should not be burdened and could not be burdened without swamping it. Yet it seems just as absurd to make a crime out of parking violations, etc., unless they are persistent, as it does to make a crime out of the other petty offences already discussed, and it is wasteful to take up the time of a judge to hear such cases unnecessarily. Accordingly, by Section 2, we provide a method by which a person charged with a first petty motor vehicle offence who does not care to contest the case may, if he wishes, pay the clerk under general order of the court a specified fine fixed by the court without taking up the time of the judge or being branded with a "criminal record." In the Municipal Court of the City of Boston, in the year ending Sept. 30, 1928, there were 11,942 cases of violating traffic rules as against 7,449 two years ago.

It has been suggested that this provision should be applied also to petty offences other than motor vehicle cases and that it would be an "unconstitutional" discrimination to relieve such motor vehicle cases of a "criminal record" and retain such a record in other petty cases. While we agree that it would be advisable to remove the shadow of a criminal record from many other petty offences which should not be classed as crimes, yet the number of statutory offences punishable only by fine listed in the second edition of Bell's "Penalties" exceeds 1,000 and we have not yet been able to classify them sufficiently for the purpose of selecting all of those which should be treated in this way. Accordingly, we have selected the largest group, — those relating to motor vehicles, in order to make a beginning. There is, of course, no more discrimination in thus selecting a group to begin with than there is in selecting any particular act as a thing to be prohibited under one penalty while others are selected for other penalties or are not selected at all. There have always been differences in the treatment of different misdemeanors. There is nothing illegal about such differences.

We believe the proposed bill would be a great step forward. If the bill which we now recommend is adopted we believe that it will relieve the district courts so that they will be in a better position to deal with the civil motor vehicle cases which would be brought before them if our recommendations in this report are followed.

The bill which we recommend in its revised form is as follows:—

An Act to Provide for Prompt Disposition of Petty Offences under Motor Vehicle Laws and Local Traffic Regulations without a Criminal Record.

SECTION 1. Section twenty of chapter ninety of the General Laws, as amended by chapter one hundred and thirty of the acts of nineteen hundred and twenty-two, is hereby further amended by inserting at the beginning thereof the following new sentence:— Any officer who takes cognizance of a violation by a holder of a certificate of registration or a license to operate issued under this chapter of any provision of section twenty-five or of any provision of this chapter the punishment for which is provided by this section or of any rule or regulation of the registrar made under authority of section thirty-one, instead of prosecuting, shall report said violation to his headquarters or station and the officer in charge thereof may instead of prosecuting notify the registrar of said violation and of his recommendations, if any, on blank forms furnished by the registrar, — and by adding at the end thereof the following:—; and in computing successive offences for the application of this sentence, the registrar shall include both convictions hereunder, and confessions under section twenty A, — so as to read as follows:—

SECTION 2. Said chapter ninety is hereby further amended by inserting after section twenty the following new section:—

Section 20A. A person summoned to appear before a district court to answer to a complaint charging him with a violation of any provision of law or rule or regulation the penalty for which is provided in the preceding section or any local traffic regulation or rule relating to motor vehicles or their operation, unless the charge is for a second or subsequent violation as aforesaid, may, instead of personally appearing in court to answer to such complaint, in person or in his absence by one duly authorized by him in writing, request that the complaint against him be taken for confessed. Such request shall be made to the clerk of the court from which such summons is issued on any day prior to the day fixed in the summons for his appearance in court, at the clerk's office during office hours, when and where the defendant, or in his absence, a person duly authorized by him for the purpose, may pay to said clerk, such fine as the court may from time to time by standing order or rule establish as a fixed penalty for such violations, not to exceed in any case the maximum fine provided by law. The payment of a fine in the manner herein provided shall operate as a final disposition of such complaint, and such proceedings shall not be deemed criminal. Summons issued upon such complaints shall contain such information as will enable defendants to take advantage of the foregoing provisions, and also a statement of the amount of fine to be paid for first violations under the order or rule of court, the time and place of payment, and a blank form of the request herein provided for.

SECTION 3. This act shall be come operative on October first of the current year.

COMPULSORY SECURITY FOR DAMAGES CAUSED BY NONRESIDENTS.

The compulsory insurance law of Massachusetts does not reach nonresident car owners or drivers, of whom, of course, there are many who use Massachusetts highways. In effect this means that the law discriminates against our own citizens because it compels them to provide security, but it does not compel the nonresident to provide security.

We believe that our law, if it is retained, may well be supplemented by a plan suggested by the New Hampshire experiment which will provide compulsory security for persons injured in Massachusetts by nonresidents who are now beyond the reach of the compulsory insurance law of Massachusetts.

We suggest the following draft act,

Draft of Act to Require Security for Damages Caused by Motor Vehicles of Nonresidents.

An action at law against a nonresident for damages to property and or for the death of or bodily injury to any person resulting from an accident in which one or more motor vehicles are involved may be begun in a district court by petition for an order to the defendant to furnish forthwith such security, as to the court shall seem proper, to satisfy, within thirty days after the rendition of a final judgment in such action, such portion of such judgment as shall not be in excess of five thousand dollars in regard to bodily injury or death and of one thousand dollars in regard to damage to property. The court shall accept as sufficient security a certificate as defined in section 34-A. The petition shall state the facts and if the court upon such inquiry, *ex parte*, or otherwise as may seem proper, finds that such accident was probably due in whole or in part to the negligence of the defendant, the court shall order the defendant to furnish forthwith such security and shall order that until such security is furnished the right of the defendant or of any one employed or authorized by him to operate a motor vehicle belonging to him in this Commonwealth be suspended. Service of the writ with a copy of the petition and order for security upon the defendant or upon the Registrar of Motor Vehicles under chapter of the acts of nineteen hundred and twenty-eight shall be made forthwith and not later than days after the issuance of such order.

NOTE.

This act could be readily adapted, by slight changes, to a compulsory security law, similar to that of New Hampshire, or, apparently, to the plan suggested by the American Automobile Association announced in the press, if the legislature should consider such a plan in place of our present law. We have drafted the act to supplement our present law on the assumption that it is to continue for the present.

PROPERTY DAMAGE BY MOTOR VEHICLES.

In connection with the discussion of compulsory insurance rates, the former insurance commissioner called attention to the fact that as the compulsory insurance law did not require insurance against

property damage a considerable number of claims or law suits appeared in which a sufficient amount of "nervous shock," or other injury which might be classed as physical, was alleged as a ground for recovering enough money to pay for the property damage which was suffered. How many claims of this character have been made, we do not know, but it is commonly reported that there are a good many claims of very vague physical injuries when the only serious thing that happened was some damage to the car of the client.

It seems to us sounder policy not to encourage the imaginations of clients in this way but to extend the compulsory insurance law, if we are to have it, to require insurance against property damage to the extent of one thousand dollars which will add little to the expense of the insurance and will result in more straightforwardness in the presentation of claims where the real damage is to property.

Cases Growing Out of the Same Occurrence Brought in Different Courts or Counties.

It occasionally happens, and not infrequently in automobile collision cases, that each party brings suit against the other. Sometimes they are brought in different courts. Obviously, this is a waste of judicial power and an unnecessary burden and expense to the Commonwealth. It is a situation which is not confined to automobile legislation but, if our previous recommendations are adopted, it is more likely to arise in those cases than in others.

For similar reasons, when cases growing out of the same occurrence are brought in different counties, the court should have power to transfer them so that they may be tried together.

We recommend a general act as follows:—

An Act relating to the Removal of Cases.

Section 1. Section one of chapter two hundred and twenty-three as amended by chapter four hundred and thirty-two of the acts of the year nineteen hundred and twenty-one is hereby further amended by adding at the end thereof the following:—"In cross actions between the same parties involving the same contract, tort or transaction, brought in the superior court, in different counties, the action last brought shall, with all papers relating thereto, be removed and transferred to the court of the county in which the first action is pending, unless the parties agree in writing, with the sanction of the court, that the first action be removed and transferred to the court in which the second action is pending."

"When two or more actions of tort, growing out of the same occurrence have been brought in the Superior Court in different counties against the same defendant or defendants, the Court may, on application of any party, or of its own motion, order that the cases be tried together in any one of the counties, and that the cases pending in the other counties be transferred accordingly."

Section 2. Section two of chapter two hundred and twenty-three as amended by section two of chapter ninety-nine of the acts of the year nineteen hundred and twenty-two is hereby further amended by adding at the end thereof the following: — "In cross actions between the same parties involving the same contract, tort or transaction, brought in different district courts the action last brought shall, with all papers relating thereto, be removed and transferred to the district court in which the first action is pending, unless the parties agree in writing, with the sanction of the court, that the first action be removed and transferred to the district court in which the second action is pending."

Section 3. Said chapter two hundred and twenty-three is hereby further amended by adding a new section as follows: — "*Section 2A.* In cross actions between the same parties involving the same contract, tort or transaction one brought in the district court and the other in the superior court, the action pending in the district court shall, with all papers relating thereto, be removed and transferred to the superior court in which the action is pending, without expense and shall not be subject to the provisions of section four of chapter two hundred and sixty-one of the General Laws as amended."

PUNISHMENT FOR PERJURY.

The report of Judge Wasservogel, already referred to, contains the following passage based on the evidence before him:—

The ease with which persons who commit perjury in court escape punishment therefor is responsible for part of the litigation instituted. Trial justices are reluctant, except in the most flagrant cases, to hold witnesses who commit perjury for the action of the grand jury, because of the difficulty experienced in obtaining indictments, and of obtaining convictions by juries after indictments have been found.

Prominent lawyers who testified before me expressed the opinion that the crime of perjury should be made a misdemeanor. I agree with this view, and believe that if the change were effected, the commission of perjury would be followed by speedy prosecution, conviction and punishment. Although the penalty for a misdemeanor, in the absence of specific provision to the contrary, is imprisonment in a penitentiary or county jail for not more than one year, or a fine of not more than \$500, or both, nevertheless I believe that the probability of such a penalty would serve as a far greater deterrent than a threat of imprisonment for a longer term, which threat is seldom carried out" (pp. 10-11).

The prevalence of perjury in courts throughout the country has been a matter of serious criticism for some years. We believe there is much force in the recommendations quoted above, but it is not necessary under the Massachusetts Statutes to reduce perjury to a misdemeanor. Our district courts, ever since 1911, have had jurisdiction over "all felonies punishable by imprisonment in the state prison for not more than five years" with the present proviso that "they may not impose a sentence to the state prison." (See G. L., c. 218, §§ 26-27, as amended by St. 1924, c. 149.) In

practice this means that they sentence to a jail or house of correction for not more than two and one-half years.

In Massachusetts today (G. L., c. 268, § 1), "Perjury on the trial of an indictment for a capital crime shall be punished by imprisonment in the state prison for life or for any term of years and whoever commits perjury in any other case shall be punished by imprisonment in the state prison for not more than twenty years or by a fine of not more than one thousand dollars or by imprisonment in jail for not more than two and one-half years, or by both such fine and imprisonment in jail."

The possibility of twenty years in state prison makes an indictment by a grand jury essential. The same is true of subornation of perjury. (See G. L., c. 268, §§ 1, 2.)

We have never heard of any sentence for perjury which approaches any of these maximum limits.

We recommend that perjury in a case other than a capital case should still be classed as a felony, but that the maximum punishment be reduced to five years in state prison in order that the offence may be brought within the jurisdiction of the district courts and a more simple and prompt procedure for such cases be thus provided.

The district courts, in cases which were disposed of by them, would be limited as already stated to a maximum penalty of two and one-half years in a jail or house of correction, but such a penalty if applied might operate as a strong deterrent. Of course it would still be possible as with other penalties now within the district court jurisdiction to bring particularly flagrant cases before a grand jury with a view to a possible heavier sentence.

We recommend the following statute:—

Draft Act as to Perjury.

Section one of chapter two hundred and sixty-eight of the General Laws is hereby amended by striking out the word "twenty" in the tenth line thereof and substituting therefor the word "five."

RENEWAL OF RECOMMENDATIONS FROM PREVIOUS REPORTS.

We again renew the following recommendations made in previous reports and not yet adopted. We see no reason for changing our opinion in regard to them and believe that each of them would prove a step in advance.

1. "An act to further the prompt administration of the criminal law."

(Draft, first report, p. 135

Reasons, " p. 18)

This act allowing District Court judges to sit in the Superior Court with juries in misdemeanor cases has been extended from year to year by the legislature, the last extension being until December 31, 1929. We believe the continuance of this act to be vital in the administration of the criminal law in Massachusetts. Accordingly, we have recommended in each of our previous reports and again recommend that the act be made permanent in view of its success thus far in breaking the congestion in the criminal courts.

2. We again recommend with emphasis, "*An act relative to appeals in murder cases.*"

(Draft, third report, p. 77

(Reasons, " p. 37)

Our reasons for this recommendation were fully stated in our third report and need not be repeated here.

3. We renew the recommendation of, "*An act to authorize the Supreme Judicial Court to stay execution of the sentence of death pending the decision of judicial questions.*"

(Draft, third report, p. 35

Reasons, " p. 32)

4. We again recommend, "*An act to authorize more abbreviated methods of decision and more abbreviated reports of decisions of the Supreme Judicial Court.*"

(Draft, third report, p. 77

Reasons, " p. 53, paragraph numbered "15")

5. The majority of the council renews its recommendation that *the Supreme Judicial Court be relieved of all nisi prius jurisdiction except admission to the bar and disbarment or other discipline of attorneys.*

6. We renew the recommendation that *the full bench of the Supreme Judicial Court sit only in Boston unless it shall, in its discretion, deem it advisable to hold a sitting elsewhere.*

(Draft Act, third report, p. 80)

As stated in our third report (p. 54) we believe, from inquiries we have made, that there is a growing feeling among lawyers in the more distant parts of the State that the opportunity of presenting their cases in Boston, on assigned days, at several different times during the year, instead of being confined to a single sitting at their county seat, will more than counterbalance the disadvantages incident to the necessary travel. The sittings in these counties are in September, and in cases tried during the fall and winter and appealed, if counsel wish to argue the case orally, instead of submitting it on briefs, they must wait, from six months to a year, for the opportunity.

7. We again recommend, *An act to avoid double trials on the facts in misdemeanor cases entered in the Municipal Court of the City of Boston.*

(Draft Act, first report, p. 135
Reasons, pp. 19-21)

This act was also recommended by the Judicature Commission in its final report, in 1921, pages 95-96 and 147. It would avoid double trials on the facts and would provide a board of review of three judges to review sentences. If a jury trial was claimed the case would be sent at once to the Superior Court without trial in the Municipal Court.

The Judiciary Committee of the legislature reported favorably in 1923 (s. 361) but, instead of limiting it to the Boston Court, as recommended by the Judicature Commission, they proposed to apply it to all the district courts. As stated in our first report, page 21, "We think the advice of the Judicature Commission should now be followed and the plan adopted for the Boston Court alone." The judges of that court made a success of the act of 1912 which abolished civil appeals. In 1922, that act was extended to all district courts. We believe that the judges of the Boston Court can make this plan for criminal cases work effectively if they are given the chance. The fact that the number of criminal cases in the Boston court has largely increased during the past year and that the number of appeals has increased from 1,645 to 1,986 during the same period, as shown by the table (Appendix B, p. 120) emphasizes the reason for our renewal of this recommendation.

8. We again recommend, "*An act to provide for the voluntary waiving of jury trial by defendants in criminal cases other than capital cases in the Superior Court subject to the approval of the court.*"

(Act, first report, p. 140
Reasons, " p. 21)

The practical experience with such a law in the neighboring state of Connecticut was described in an article by Judge Maltbie of Connecticut, which was reprinted in Appendix D, pages 107-113 of our third report. The experience in Maryland was described in our first report, pages 97 and 108.

9. We again recommend, "*An act concerning the jurisdictional limits of District Courts in civil cases.*"

(Draft, first report, p. 145
Reasons, " p. 47)

We believe that where both parties are satisfied to have their case disposed of in the district court with less expense to themselves and to the public that not only should this be allowed, but that the public has a right to be spared the unnecessary greater expense of proceedings in the Superior Court under the present law.

The draft act would remove all jurisdictional limits from the district courts so that a suit involving any amount might be brought there, but the defendant would have an unrestricted right of removal to the Superior Court in any case in which the amount involved exceeded the present jurisdictional limits of \$5,000 in the Boston Municipal Court and \$3,000 in the other district courts.

10. We again recommend, "*An act concerning inquests.*"

(Draft, first report, p. 146

Reasons, " p. 50)

This act would avoid duplication and occasional triplication of work and expense to the public by striking out the mandatory requirement for inquests and making them discretionary with the court unless there is a written request of the Attorney-General or the District Attorney, in which case the inquest shall be held as requested.

11. We also renew the recommendation of, *An act to provide for a third special justice in district courts serving a population of more than 100,000.*

(Draft, first report, p. 141

Reasons, " p. 52)

As these special justices would be paid only when their services were needed, the increased expense would not be constant.

12. We also renew the recommendation concerning "*Admission to the bar.*"

(Draft, first report, p. 147

Reasons, " p. 65)

The direct interest that the community has in improving the standards of the bar cannot be too strongly emphasized.

13. For similar reasons, we renew our recommendation of, "*An act relative to the discipline of attorneys-at-law.*"

(Draft, second report, p. 108

Reasons, " p. 29)

A bill substantially similar to the draft submitted by us was favorably reported by the Judiciary Committee in 1926. It was then referred to the Judicial Council for its opinion which was submitted in our second report, above referred to, and renewed in our third report. We have already referred to this recommendation in the discussion on p. 26.

14. We again recommend, "*An act relative to the method of stating evidence in bills of exceptions.*"

(Draft, second report, p. 112

Reasons, " p. 35)

15. We again recommend, "*An act to encourage the revision of the form of writs.*"

(Draft, second report, p. 112

Reasons, " p. 37)

Documents sent out under the seal of the court and over the signature of the clerk should state what they mean.

16. We also renew the recommendation of, "*An act to prohibit nominal or 'chip attachments.'*"

(Draft, second report, p. 113

Reasons, " p. 43)

This would do away with an absurd misrepresentation of fact, now sent out in many cases under the seal of the court and over the signature of the clerk, which we have no doubt causes much unfortunate and unnecessary worry to people against whom law suits are started.

17. We again recommend, "*An act to separate debt-collecting from controversial litigation.*"

(Draft, second report, p. 114

Reasons, " p. 44)

We believe this to be one of the most effective methods of discouraging groundless defences to just claims and thus lessening congestion in the courts.

18. We also renew our recommendation of, "*An act relative to the transmission of papers in appeal cases.*"

(Draft, second report, p. 115

Reasons, " p. 60)

Here again we are dealing with a traditional practice resulting from a technical conception of what constitutes the record in the court below. We think that for an appellate court to decide a question on appeal without having before it the reasons of the court below when those reasons are available in writing is an unbusinesslike practice producing sometimes unfortunate results and that it should not continue.

19. We again recommend (one member dissenting), "*An act relative to private conversations between husband and wife in cases of domestic relations.*"

(Draft, second report, p. 116

Reasons, " p. 62)

20. We renew the recommendation of "*An act to extend the rule-making power of courts to allow procedure for declaratory judgments.*"

(Draft, third report, p. 66

Reasons, " p. 65)

21. We again renew our recommendation that *there be a general increase in court fees, other than those in the District Courts.*

(Reasons, second report, p. 47
third report, p. 28)

Judge Wasservogel, of New York, has called attention to the fact that increase of entry fees in New York within the last year or two was noticeably reflected by the decrease in the number of suits brought. The cost of everything else has gone up but the entry fee in the Superior Court remains what it was 40 or 50 years ago, namely, \$3. There is a marked difference of opinion at the bar on the question of increasing court fees. We believe that if they are increased in the Superior Court and left as they are in the district courts it will have a healthy effect and will hurt no one.

22. We renew the recommendation *to clear up complications in separate support cases in the Probate Courts and non-support cases on the criminal side of the District Courts.*

(See discussion, first report, pp. 69-70)

As a method of accomplishing this result we suggest the following draft based on section 2 of the draft act suggested by the Judicature Commission in its final report in 1921, pp. 141-142.

In a prosecution for desertion or non-support against a husband under chapter 273 of the General Laws, a decree or judgment of the Probate Court in a proceeding in which the husband appeared or was personally served with process, establishing the right of the wife to live apart, or of her freedom to convey and deal with her property, or the right to the custody of the children, shall be admissible and shall be sufficient evidence of such rights.

23. We renew the recommendation *"that there be a general increase in the amount of minimum fines or money penalties prescribed by law for the commission of crimes and misdemeanors in order to bring them into accord with the increased cost of maintaining and administering our municipalities and their institutions."* As pointed out in the third report, p. 23, practically all fines and penalties were established in pre-war times when the dollar was about twice its present value. All wages and expenses, living and business costs, including taxes, have greatly increased since then. The cost to the criminal of violating the law has not; it alone has remained constant.

24. We again call attention to the suggestion in the third report at p. 63 *"that an act should be passed giving a judge, who has reached a certain age after a fixed period of service, the option of retiring from a full-paid position to a position of part-time service with the judicial salary adjusted to sixty per cent of the salary of a full-time judge. Under such a provision those of the older judges, who find themselves overburdened by the strain of jury trials and the necessity of travelling about the state could undertake work, which, while equally important, would involve less time and effort. Such part-time judges could undoubtedly hear some of the cases which are now referred to masters,"* but they would hear them as judges as they should be heard. As pointed out in the third report, a somewhat similar system has been in operation in Connecticut since 1919. We renew the recommendation.

25. We renew the recommendation to extend the equity jurisdiction of the Probate Courts.

(Reasons and Draft, third report, pp. 67-68)

26. THE NEED OF MORE COURT HOUSE SPACE IN SUFFOLK COUNTY.

We call the attention of the public with renewed emphasis to the following passage from our third report, p. 29:

"The greater part of the litigation of the entire Commonwealth takes place in the Suffolk Court House, in Pemberton Square.

"We again repeat the opinion expressed last year, as well as the year before, that 'The present congestion in the Suffolk County Court House . . . is an obstacle to the administration of justice.' Additional accommodations are a pressing public necessity. We urge legislative action without further delay.

"In the meantime, we suggest that rooms for the more pressing needs requiring little or no making over of such rooms, be leased by the county in office buildings in the downtown section of Boston as near the court house as practicable, for such temporary quarters. Some of such rooms might be used for masters and auditors. Within the memory of men still in practice the jury-waived sessions in Suffolk were held in offices on Court Street, opposite the old court house, which was outgrown before the present court house was built. We think the present condition of the Suffolk Court House warrants similar action now."

Every year makes conditions worse. The increase in business shown by the tables in Appendix B emphasizes this. As we stated last year, "We mention conditions in the Suffolk County Court House only, because we believe that condition to be the worst in the Commonwealth."

Previous Recommendations Adopted since our Third Report.

Since our last report, the following recommendations of the Judicial Council have been adopted,

1. That the form of notice in Land Court proceedings be revised so that it will explain what it means

(See second report, p. 42)

Adopted by St. 1928, c. 129.

2. An act relative to the negligent operation of motor vehicles

(See third report, p. 37)

Adopted by St. 1928, c. 281.

3. An act relative to the sittings of the Superior Court

(See third report, p. 80)

Adopted by St. 1928, c. 228.

4. An act to eliminate common law appeals from equity practice

(Reasons for this act were explained in detail in third report, pp. 64, 79)

Adopted by St. 1928, c. 306.

5. That the Supreme Judicial Court for the Commonwealth sit more frequently for hearing appeals.

(See third report, p. 55)

At the opening of the November sitting of the Court, the substance of the following statement was announced from the bench:

A new system of sittings of the Court for the Commonwealth has been adopted, beginning with the current Court year, whereby a sitting will be held in each month from October to May, inclusive, not exceeding two weeks in any month.

This change has been made in the hope that there may be speedier hearings and decisions and less delay in the entry of final disposition of cases.

Whether this change will accomplish the desired result will depend upon the co-operation of the members of the bar in arguing cases when reached in their order, and in not marking cases over except in instances of impelling necessity.

Summary of the Work Accomplished by the Various Courts.

The act creating the Judicial Council (St. 1924, c. 244, reprinted at the beginning of this report) provides that the Council shall study "the work accomplished and the results produced by the judicial system and its various parts" and "shall report annually upon the work of the various branches."

There have been entered in the Supreme Judicial Court, Superior Court, Land Court, Probate Court, the Municipal Court for the City of Boston, the other District Courts and in Trial Justices' Courts during their last statistical year as reported 194,382 civil cases and 245,765 criminal cases. The annual periods reported by the different courts are not the same, some reporting for the last calendar year while others from June 30 to June 30, etc. The details are as follows:

	Civil.	Criminal.
SUPREME JUDICIAL COURT.		
Entries not including Appellate Cases ¹	2,544	
Full Bench Rescripts	464	
Superior Court	36,412	14,747
Land Court	1,682	
Probate Courts	29,712	
Municipal Court of Boston:		
Entries	41,916	40,734
Appellate Division	132	
District Courts:		
Entries	81,424	173,738
Appellate Division	96	
Trial Justices		1,799
Total	194,382	245,765
Grand total	440,147	
¹ Prerogative writs, etc.	82	
Equity	122	
Petitions for Admission to the Bar	1,251	
Attorney-General Informations	1,089	
	2,544	

For details as to counties see Appendix B.

There is a duplication of cases to the extent of seven (7) entered in the Supreme Judicial Court and transferred to the Superior Court for trial and of 3,078 cases removed from the District Courts including Boston, to the Superior Court.

On the other hand, attention is again called to the fact that a "Single land registration petition often covers in fact several different cases, while in the Probate Courts in each estate probated, for instance, there may be various petitions, each raising a separate issue and each requiring a hearing" (Third Report, p. 8).

Besides the foregoing 440,147 cases there were 64,167 tabulatable injuries brought before the Department of Industrial Accidents. And a large number of petitions some, at least, of a judicial nature, brought before County Commissioners.

SUPREME JUDICIAL COURT.

During the Court Year, September 1, 1927 — August 31, 1928, the Supreme Judicial Court decided 464 cases, which came to it on appellate process, including 19 cases in which there were rescripts and no opinions. There were also filed three advisory opinions of the Justices.

Besides these 464 cases, there were entered in the Supreme Judicial Court 2,659 cases, of which seven (7) were transferred to the Superior Court and the rest were heard or are now pending. A large part of these, 1,269 in number, were petitions for admission to the bar, and 1,089 were informations by the Attorney-General against corporations that had failed to file corporation returns.

Appendix B shows the entries by Counties of cases (not including Full Bench Cases) in the Supreme Judicial Court for the period stated. Inasmuch as most of these entries are in Suffolk County, we have inserted (Appendix B) a detailed table of the entries in that county, from which it appears that there were 76 prerogative writs, and 122 suits in equity entered during that period.

As we observed last year, the great bulk in numbers of cases entered in the Supreme Judicial Court (excluding, of course, Full Bench Cases) are of a formal nature and require very little of the Court's time and attention. The litigated business ordinarily consists of the equity cases, prerogative writs and occasional disbarment cases.

SUPERIOR COURT.

Tabulated returns of the Clerks of Superior Court for the year June 30, 1927, to June 30, 1928, appear in Appendix B.

The situation on the criminal side of the Court is very reassuring. There were 5,043 cases on the docket untried the beginning of the year and only 3,119 at the close of the year; that is to say, the number of cases untried at the close of the statistical year is 1,924 less than the number untried at the close of the preceding year, and about 3,500 less than the number remaining untried three years ago. This is a very satisfactory result and shows the wisdom of employing District Court judges in the Superior Court sessions.

We have already dealt largely in this report with the situation on the civil side of the Superior Court and the need for relief to that court. Therefore, we will only briefly call attention here to the following figures.

There were pending at the beginning of the statistical year, June 30, 1927, a total of 64,290 cases and 77,273 cases at the close of the year, June 30, 1928. This is an apparent increase of 10,983 cases.

But these figures include 23,468 cases marked inactive under the rule, the majority of which will be dismissed. It is therefore problematical just how many more really active cases were pending at the close than at the beginning of the statistical year.

The following figures may be an approximately correct indication. There were 24,279 cases disposed of from July 1, 1927, to June 30, 1928, and 9,541 marked "inactive," a total of 33,820 disposed of and "inactive" in that period. During the same time 36,475 cases were entered, showing that the new entries exceeded the cases disposed of and marked "inactive" by 2,655 cases.

Notice should be taken in passing of the fact that divorce cases are being entered very largely in the Probate Courts and that the Superior Court is relieved to that extent.

LAND COURT.

The total number of cases in the Land Court has increased from 487 in the year 1907 to 1,682 in the year 1927. In spite of that large increase in the business of that Court the net cost to the Commonwealth was only \$11,996.15 more than in 1907, and was actually \$2,729.17 less than in 1917. This reduction in expense to the Commonwealth was due, in large measure, to the additional income of the Court brought about by the increase in fees under the statute which was passed by the legislature in the year 1923.

The number of cases entered, as has been pointed out in a former report, is not an accurate indication of the amount of work done in that Court for the reason that a single petition for registration of title to land often includes many independent issues involving

different respondents. Moreover, substantially all the cases, even though uncontested, have to be passed upon by the Court.

Details of Land Court statistics, arranged in ten-year intervals (1907, 1917, 1927) are as follows:

LAND COURT STATISTICS FOR THE YEARS 1907, 1917, 1927.

	1907.	1917.	1927.
Registration cases	357	463	661
Post registration cases	—	—	453
Tax lien cases	—	7	459
Miscellaneous cases	130	64	109
Total cases entered	487	534	1,682
Decree plans made	—	478	640
Subdivision plans made	—	212	566
Total plans made	—	690	1,206
Total appropriation	\$40,630 00	\$64,675 00	\$96,700 00
Fees sent State Treasurer	14,187 33	21,902 11	58,428 74
Net cost to Commonwealth	24,071 69	38,797 01	36,067 84
Assurance fund	—	73,348 00	200,000 00
Assessed value of registered land	3,643,512 00	5,034,021 00	7,863,711 00

PROBATE COURT.

As appears in Appendix B there were 25,208 entries (other than divorce cases) in the Probate Courts of this Commonwealth during the year 1927, and 4,404 entries of divorce and nullity cases.

As there were but 469 divorce and nullity cases entered in the Superior Court during the year ending June 30, 1928, it is apparent that fully 90% of these cases are now being settled in the Probate Courts.

As we pointed out in our Third Annual Report (p. 15) the number of entries thus stated in no way represents the amount of business done by the Courts, because in each will, estate and trust there are apt to arise questions of construction, accounting, etc., that involve hearings, decisions and decrees so that they are in effect independent cases although never listed as such. In other words, a will offered for probate, for example, counts merely as one case although many different issues arising under it have to be heard and determined.

The Probate Court for the County of Suffolk keeps a detailed record of the papers recorded each year, and we print (Appendix B) its record of papers recorded during the year 1927, in order to show the extent, variety and importance of the work done by these courts. These do not include divorce cases.

We suggest that like records be kept in all the courts, so that it may be possible to tabulate the work annually done by all the Probate Courts in the Commonwealth.

We also print (Appendix B) a table showing the number of cases

tried and disposed of by the Suffolk Probate Court for the year 1927.

MUNICIPAL COURT OF THE CITY OF BOSTON.

Including poor debtor, Dubuque and small claims cases, there were 41,916 civil cases entered in this court during the calendar year 1927, and 40,734 criminal cases including inquests.

The table on the page opposite shows the details of civil action in the Court from 1913 to the year 1927, inclusive.

We again call attention to the number of cases brought in this Court in which the *ad damnum* (amount claimed in the writ) is more than \$2,000 and in which the defendants have submitted to its jurisdiction.

	Number of Cases.	Removed.	Per Cent.
1926	1,209	204	16%
1927	1,749	187	10.6%

These figures are significant. Here are 2,567 cases that were disposed of in the Municipal Court of Boston by consent of parties which, prior to 1922, would have had to go to the Superior Court. As we have shown in our Third Report (page 19) this means great economy to the Commonwealth, the Counties, and to parties. To quote from this report: "If parties are willing to dispose of their issues in a district court, why compel them to an entry which costs the taxpayer \$66.45 when they are satisfied with one that costs \$4.35, or why compel them to a trial which costs the taxpayer \$415.44 when he is satisfied with one that costs \$45." If none of these 2,567 cases were tried the taxpayers would be saved more than \$150,000 by having judgments entered in this court rather than in the Superior Court. To the extent that they were tried, the saving was correspondingly greater.

The following figures showing not only entries of poor debtor and Dubuque process cases during 1927 but also contrasting figures as to the entries under the old poor debtor and the new supplementary process laws for equivalent periods are of great interest. The increase of supplementary process over the poor debtor process during the comparative eight months' period March 1 to October 1, is nearly 100%. Just how much of this gain is due to the change of venue to include places of employment, or how much of it is due to a greater serviceability of the new process will doubtless

MUNICIPAL COURT OF THE CITY OF BOSTON — CIVIL ACTIONS.

Year.	Entered.	Removed.	Per Cent.	All Defaults.	Per Cent of Entries.	Tried.	Per Cent of Entries.	Total plaintiffs' Judgments.	Average plaintiff's Judgment, Contract, only.	Heard, Appellate Division.	Per Cent of Trials.	To Supreme Judicial Court.
1913	14,005	441	3.1	7,067	50	1,735	12	\$1,008,147	\$115.10	74	4.2	11
1914	15,173	501	3.3	7,681	50	1,676	11	976,320	103.45	88	5.2	18
1915	16,077	401	2.4	7,848	49	1,587	10	-	-	-	-	9
1916	16,095	401	2.4	7,707	47	1,760	11	1,117,059	104.69	93	5.8	19
1917	15,552	424	2.7	7,189	46	1,745	11	1,203,926	126.58	88	5.0	10
1918	12,786	380	2.9	6,381	49	1,290	10	1,043,886	120.32	84	6.5	6
1919	12,204	408	3.3	5,511	45	1,554	12	925,275	137.46	76	4.8	24
1920	13,702	477	3.4	6,078	44	1,745	12	1,065,379	132.97	94	5.4	18
1921	18,640	677	3.6	7,302	39	2,203	11	1,563,293	146.82	93	4.2	15
1922	19,948	476	2.366	10,106	50	2,201	11	1,877,970	154.10	106	4.8	10
1923	21,805	746	3.4	10,589	48	2,397	11	2,019,262	158.49	77	3.2	20
1924	23,820	907	3.8	11,239	47	2,636	11	2,256,391	149.86	79	3.0	14
1925	26,482	1,263	4.8	13,149	49	2,661	10	2,529,877	156.28	103	3.8	18
1926	30,830	1,505	4½	15,184	49	2,928	9	2,980,009	163.74	92	3.1	22
1927	36,025	1,303	3.6	18,129	50	3,342	9.2	3,579,613.41	152.05	104	3.1	21

The jurisdictional limits in civil cases from 1866 to 1877 were \$300; from 1877 to 1894, \$1,000; from 1894 to 1922, \$2,000; since 1922, \$5,000.

appear later when we have corresponding returns from other District Courts for the later period.

Year 1927.	Poor Debtor entries	4,615
	Dubuque Process entries	91
Year 1928.	Poor Debtor, January — February entries	725
	Dubuque Process, January — February	10
	Supp. Process, Mar. 1, 1928, to Oct. 1, 1928	4,995
	Poor Debtor, Mar. 1, 1927, to Oct. 1, 1927	2,598

The Appellate Divisions of the District Courts, including the Municipal Court of the City of Boston, seem to be functioning efficiently and satisfactorily.

Out of 3,342 cases tried in the Boston Court, 106 were carried to and decided before the Appellate Division and but 21 of these went to the Supreme Judicial Court. The other district courts do not report the number of trials, but, as their civil entries are about double those of the Municipal Court of Boston, the trials would probably be relatively large. Nevertheless, but 15 of the 96 cases tried and carried to the Appellate Division went to the Supreme Judicial Court during the year 1927.

	Cases Tried.	Reported Appellate Division.	Decided Appellate Division.	Appeal to Supreme Judicial Court Perfect.
Municipal Court, Boston	3,342	132	106	21
Other District Courts		96		15
		228		36

OTHER DISTRICT COURTS.

There are 72 of these Courts (with 72 standing justices and 140 special justices) and their statistical report, facing this page, embraces the year October 1, 1926, to October 1, 1927.

There were 81,424 civil cases entered, including Poor Debtor, Dubuque, Small Claims and Insane Cases.

The following table shows the facts more in detail and includes the three prior years for the purpose of comparison.

	Oct. 1, 1926, to Oct. 1, 1927.	Oct. 1, 1925, to Oct. 1, 1926.	Oct. 1, 1924, to Oct. 1, 1925.	Oct. 1, 1923, to Oct. 1, 1924.
Court writs entered	47,413	43,294	39,561	36,405
Poor Debtor and Dubuque	11,739	8,650	6,908	5,912
Small Claims	19,326	18,179	19,618	17,820
Insane	2,946	3,799	2,883	2,928
Total	81,424	73,922	68,970	63,065

AS REPORTED BY THE CLERKS OF SAID COURTS.

Compiled by the Administrative Committee of District Courts.

DISTRICT COURTS	Civil Writs Entered	Appeals, Civil	Removals to S. C.	Reported to App. Div.	Appealed to S. J. C.	Poor Debt. & Dubug.	Small Claims	Insane	Crim. cases begun	Crim. Appeals	Drunkennes	Auto Cases			Int. liquor cases	Inquests	Juvenile cases under 17 years
												Operating under inf. of int.	Liquor	Total Automobile Cases			
Worcester, Central	4941	2	167	3	3	545	906	315	7796	875	4012	98	189	945	253	78	447
Springfield	3360	3	78	3	3	349	1416	140	9589	131	1209	189	2860	441	31	31	429
Middlesex, First Eastern	3593	3	130	3	1	815	1378	64	4707	173	1758	160	785	293	30	170	170
Roxbury	558	3	7	...	...	136	702	8	15911	1169	4700	...	4206	1514	27	572	572
Bristol, Third	1580	...	33	7	...	53	380	96	3644	306	1240	103	352	352	17	198	198
Middlesex, Third Eastern	3529	...	124	10	...	1809	778	170	9349	736	3929	...	1899	407	42	428	428
Dorchester	455	...	11	...	...	589	535	...	5606	254	1177	...	2873	118	9	49	49
Lowell	1327	2	37	3	...	143	502	130	4116	154	2101	...	636	441	36	168	168
Bristol, Second	1782	1	73	3	...	136	376	102	3616	243	1689	46	220	521	22	208	208
Essex, Southern	2391	...	162	7	1	376	582	76	5241	269	1836	99	1616	437	12	383	383
Lawrence	1365	...	48	2	1	158	178	53	3771	250	1944	120	588	187	12	243	243
Norfolk, East	2101	...	56	1	...	660	788	46	5627	179	1468	223	2689	140	21	244	244
Somerville	1787	...	76	12	...	907	508	74	2741	242	1375	61	336	210	21	177	177
West Roxbury	188	...	5	...	...	41	314	...	5020	303	1223	81	2408	160	14	234	234
Essex, First	882	1	118	2	...	160	274	286	2689	256	858	94	570	174	27	144	144
Brockton	1023	1	55	3	1	147	445	60	2983	154	1369	95	356	173	17	151	151
East Boston	239	...	14	1	...	62	248	...	6900	477	3627	43	1184	499	21	480	480
Chelsea	817	3	33	1	...	145	523	15	3162	439	2020	98	1454	278	22	330	330
South Boston	183	1	2	...	...	17	132	...	8563	283	6095	62	725	650	10	83	83
Essex, Northern Central	673	...	50	...	...	19	1251	127	615	33	871	43	188	78	13	27	27
Holyoke	543	...	41	...	...	387	59	1807	39	565	74	384	144	16	79	79	79
Hampshire	552	...	14	1	...	20	435	91	1597	99	565	80	602	153	37	253	253
Middlesex, Second Eastern	1470	45	1	...	...	241	374	135	2442	182	911	89	602	136	10	102	102
Berkshire, Central	487	...	16	5	...	17	747	51	1968	28	681	48	534	136	10	102	102
Bristol, First	469	1	20	...	...	18	205	116	1267	58	513	50	261	112	26	49	49
Middlesex, Fourth Eastern	940	...	15	1	...	105	875	12	2093	55	647	55	647	113	6	101	101
Newton	1029	39	39	7	1	144	541	33	1608	95	536	105	568	92	12	131	131
Fitchburg	416	2	13	...	...	13	129	20	1542	51	774	43	270	68	8	81	81
Norfolk, Northern	697	...	16	...	...	214	87	106	1406	39	481	69	480	31	23	34	34
Brockton	254	1	7	2	...	69	327	3	2693	139	730	71	931	107	13	101	101

Brockton																	
East Boston	1025	1	32	1	14	1	13	445	00	2283	134	1369	95	356	173	17	151
Chelsea	817	3	33	1	62	248	...	6900	477	3687	43	1184	499	21	480	21	480
South Boston	183	1	2	...	145	523	15	5162	439	2020	98	1454	278	22	330	22	330
Essex, Northern Central	673	...	50	...	17	132	...	8563	283	6095	62	725	650	10	83	10	83
Holyoke	543	...	28	...	50	100	19	1251	127	615	46	167	78	13	27	13	27
Hampshire	552	...	14	...	41	387	59	1807	33	871	43	188	87	11	129	11	129
Middlesex, Second Eastern	1470	...	45	1	20	435	91	1597	99	565	74	324	144	16	79	16	79
Berkshire, Central	487	...	16	5	241	374	135	2442	182	911	89	602	153	37	253	37	253
Bristol, First	469	1	20	...	17	747	51	1968	28	681	48	524	136	10	102	10	102
Middlesex, Fourth Eastern	940	...	15	1	18	205	116	1267	58	513	50	261	112	26	49	49	49
Newton	1029	...	39	7	105	875	12	2093	55	647	120	979	113	6	101	6	101
Fitchburg	416	2	13	...	144	541	33	1008	95	556	105	568	32	12	131	12	131
Norfolk, Northern	697	...	16	...	13	129	20	1542	51	774	43	270	68	8	81	8	81
Brighton	254	1	7	2	214	87	106	1406	39	481	69	480	31	23	34	31	23
Franklin, Greenfield	319	1	14	...	69	327	3	2693	139	730	71	981	107	13	101	13	101
Worcester, First Southern	155	...	4	...	11	119	38	759	45	144	40	142	79	31	40	31	40
Brookline	1108	...	41	3	11	19	17	1082	51	360	33	115	56	9	44	9	44
Bristol, Fourth	203	...	3	2	470	236	34	1221	43	266	23	613	26	7	113	7	113
Plymouth, Second	392	...	7	...	21	185	27	659	23	190	33	168	48	10	53	10	53
Chicopee	302	1	5	1	99	284	23	1835	113	557	114	658	62	2	45	2	45
Worcester, First Northern	232	...	25	3	17	69	20	1173	27	430	34	140	94	3	56	3	56
Charlestown	82	1	1	...	7	73	64	960	70	286	50	240	34	7	47	7	47
Middlesex, First Southern	607	1	14	...	2271	196	...	5088	253	2903	32	846	217	8	209	8	209
Essex, Eastern	292	...	13	...	119	307	27	1134	46	268	69	392	163	9	86	9	86
Norfolk, Western	322	...	11	...	59	49	12	1110	57	482	30	161	47	6	55	6	55
Middlesex, Central	301	...	7	...	45	61	51	1501	44	228	58	590	126	17	45	17	45
Worcester, Second Southern	119	...	3	2	47	148	10	837	38	283	65	216	100	7	49	7	49
Hampden, Western	99	...	3	...	6	45	3	570	32	126	25	124	23	1	2	1	2
Berkshire, Northern	112	...	3	...	5	95	17	1073	51	366	37	207	91	7	91	7	91
Marlborough	266	1	9	1	47	23	23	660	6	387	16	50	69	8	18	8	18
Worcester, Second Eastern	132	...	6	...	14	105	23	439	18	173	20	70	53	2	14	2	14
Newburyport	238	1	5	1	6	73	28	584	14	169	19	136	24	5	44	5	44
Plymouth, Third	160	2	9	2	12	167	6	506	35	183	25	75	25	8	31	8	31
Peabody	268	...	18	...	33	184	9	622	41	124	187	33	10	25	25	10	25
Leominster	185	...	6	...	24	129	16	1178	29	464	34	259	113	4	114	4	114
Worcester, Western	64	...	5	...	7	47	19	637	15	253	21	102	98	5	37	5	37
Worcester, Third Southern	98	...	5	...	9	77	8	601	32	92	19	143	23	3	16	3	16
Hampden, Eastern	114	...	2	...	9	42	13	333	8	98	10	70	30	...	24	...	24
Plymouth, Fourth	126	1	2	...	3	3	20	765	18	100	35	118	207	8	25	8	25
Norfolk, Southern	232	...	11	...	18	67	47	1206	43	180	45	519	111	6	46	6	46
Middlesex, First Northern	69	...	7	...	60	28	10	583	40	170	33	181	29	5	31	5	31
Worcester, First Eastern	71	...	7	...	7	72	6	686	18	84	33	176	81	3	18	3	18
Berkshire, Fourth	70	...	2	...	8	60	26	368	19	74	20	183	30	4	40	4	40
		...	...	...	54	...	...	346	3	96	...	78	...	...	...	...	...

Plymouth, Fourth.....	126	1	2	.....	18	67	20	163	18	100	35	118	207	8	25
Norfolk, Southern.....	232	.....	11	.....	60	28	10	583	43	180	45	519	111	6	46
Middlesex, First Northern.....	69	.....	1	.....	7	72	6	686	18	84	33	181	29	5	31
Worcester, First Eastern.....	71	.....	7	.....	8	60	26	368	19	74	20	183	81	3	18
Berkshire, Fourth.....	70	.....	2	.....	.....	54	.....	346	3	96	.....	78	8	4	9
Essex, Second.....	171	.....	15	.....	11	52	5	558	49	94	22	241	56	8	40
Barnstable, First.....	221	.....	6	1	21	211	3	848	36	108	42	185	84	5	39
Barnstable, Second.....	202	.....	3	.....	42	165	5	309	16	41	20	73	20	12	17
Berkshire, Southern.....	75	.....	7	2	.....	181	9	330	8	73	14	139	28	3	19
Natick.....	180	.....	4	.....	15	48	10	541	9	163	20	378	28	6	6
Lee.....	22	.....	1	.....	.....	120	8	261	8	59	23	130	12	6	44
Hampshire, Eastern.....	29	.....	.....	.....	3	14	11	133	2	50	3	30	35	1	2
Franklin, Eastern.....	26	.....	1	.....	2	26	3	88	3	17	2	22	6	4	4
Essex, Third.....	35	.....	.....	.....	6	26	3	199	7	80	10	32	11	9	2
Winchendon.....	25	.....	1	.....	2	4	4	168	.....	63	11	18	9	1	1
Dukes County.....	47	1	1	.....	.....	215	5	142	6	8	2	41	8	.....	9
Williamstown.....	6	.....	.....	.....	.....	12	3	86	3	13	2	15	2	.....	12
Nantucket.....	5	.....	.....	.....	.....	27	.....	131	6	14	6	65	5	.....	24
47413	34	1775	96	15	11739	19332	2046	165015	9184	61475	3552	40284	10653	888	7835

*Not reported separately

Grand Total of all Cases, 382,236

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Although the number of entries materially increased over those of the preceding year ($9\frac{1}{2}\%$) the number of cases removed to the Superior Court decreased from 1,853 to 1,775, or from 4.3% of cases entered to 3.75%.

There were reported to the Appellate Division 96 cases, of which 15 were appealed to the Supreme Judicial Court. During the prior year the number of cases reported was 82 and the number of appeals was 13.

On the criminal side of these courts the comparative statistics are as follows:

	Oct. 1, 1926, to Oct. 1, 1927.	Oct. 1, 1925, to Oct. 1, 1926.	Oct. 1, 1924, to Oct. 1, 1925.	Oct. 1, 1923, to Oct. 1, 1924.
Criminal cases begun	165,015	161,809	168,681	163,530
Inquests	888	780	800	827
Juvenile cases under 17 years	7,835	8,084	8,155	7,938
Total	173,738	170,673	177,636	172,295

It will be noted that while the criminal cases increased 3,106 over preceding year, they are still substantially less than in 1924-25.

TRIAL JUSTICES.

There were presented to the ten Trial Justices now in this Commonwealth during the year September 30, 1927, to September 30, 1928, 1,799 Criminal cases as shown by Appendix B. Trial justices have no civil jurisdiction. There were 26 cases pending September 30, 1927, and 32 cases pending September 30, 1928. Forty-one cases were appealed, 60 cases sent to the grand jury, and the remainder finally disposed of.

DEPARTMENT OF INDUSTRIAL ACCIDENTS.

There were 168,057 accidents reports filed with the Department during the year 1927, of which 64,167 were for injuries causing the loss of at least one day or one shift, called in the report of the department "tabulatable injuries." Of this latter number 5,221 cases were not insured, and how many of them ripened into law suits we do not know. Neither can we know how many of the remaining 58,946 cases would in fact have gone before our courts if they had not been adjusted before the Industrial Accident Board. But when we consider that 317 of these 64,167 cases resulted in death, 17 in permanent total disability, 1,232 in permanent partial disability, and that more than 60.5 per cent of the remaining 62,601

cases represent a temporary disability of more than a week, it is evident that the courts have been relieved from some thousands of cases that would otherwise have been brought to recover damages.

In lieu of damages and settlements that would have been paid to injured employees, if the Workmen's Compensation Act did not exist, there was paid by the various authorized insurance companies operating under this Act the sum of \$8,018,634.38 during the year 1927 at a gross cost of \$194,550. As there were receipts of \$17,330.79 to be credited, the net cost to the Commonwealth was \$177,219.21.

It will be noted that the number of "tabulatable injuries" increased 6,818 in number while the net cost to the Commonwealth increased by \$11,989. There was a marked increase also in the number of those not insured.

REPORT REQUESTED BY THE LEGISLATURE IN REGARD TO THE PREPARATION AND ENTRY IN CIVIL CASES OF THE NECESSARY PAPERS IN APPELLATE PROCEEDINGS BEFORE THE FULL BENCH OF THE SUPREME JUDICIAL COURT.

By a joint legislative order printed in a footnote,¹ House Bills 487 and 1268 relating to this subject were referred to the Judicial Council with a request that they be considered and that the council report its recommendations on the subject.

The general purpose of both bills appears below, and is one which, we believe, should be carried out. The only question is as to the details. House Bill 487 was probably drawn somewhat hastily to bring the matter before the legislature for consideration. The purpose of the bill being approved by the Judiciary Committee, it was redrawn in the form of House Bill 1268. This bill seems to us too long and some of the details of it have been criticized as not adapted to the purpose of making the requirements in this matter more definite.

We wish to express appreciation of the assistance in considering

¹ *Senate*, May 22, 1928.

ORDERED, That the judicial council be requested to investigate the subject matter of current House bills numbered four hundred and eighty-seven and twelve hundred and sixty-eight relative to the preparation, transmitting and entry in the Supreme Judicial Court of copies and papers relating to questions of law arising in civil proceedings, and to include its recommendations in relation thereto with drafts of such legislation as may be necessary to give effect to the same in its annual report for the current year.

Sent down for concurrence.

WILLIAM H. SANGER, *Clerk.*

House of Representatives, June 5, 1928.

Adopted in concurrence.

FRANK E. BRIDGMAN, *Clerk.*

this subject received from E. V. Grabill, Esq., Reporter of Decisions of the Supreme Judicial Court, who, besides furnishing us with comments on the two bills referred to, has submitted a substitute draft of his own. The substance of his draft with slight changes seems to us to be better adapted to accomplish the general purpose than either House 487 or House 1268, but we think that it should be abbreviated so that the substantial rule to be observed by the bar and the clerks will be clearly stated in one section in the statutes, and that so far as the changes in other sections of the General Laws are concerned, those changes should as far as practicable incorporate, by reference, the governing section containing the rule.

The reason for the proposed legislation is as follows:—G. L., c. 231, § 135, relating to cases at law provides that the necessary papers shall be prepared and thereupon “entered . . . as soon as may be.” This language is incorporated by reference for probate appeals by G. L., c. 215, § 10. G. L., c. 214, § 19, provides that appeals in equity “shall forthwith be entered in the Supreme Judicial Court.” (See also G. L., c. 231, § 144.) These words, “as soon as may be” and “forthwith” are somewhat vague. While the court has emphasized the need of promptness in these cases,¹ we believe that it will be fairer to the bar and to the litigants and also will relieve the full bench of preliminary questions with which it ought not to be bothered, if reasonable fixed periods in which certain things must be done are substituted for the present vague language of the statute. The Supreme Judicial Court is too busy to be called upon to decide whether twenty-five or thirty days is under the circumstances “as soon as may be” or “forthwith.” Counsel, when the record has been received in the Supreme Judicial Court and the case is ready for argument, should not be faced with the necessity of arguing such minor questions instead of the merits. Experience shows that when lawyers have to do things in a certain time, they generally succeed in getting them done. If reasonable

¹ *Griffin v. Griffin*, 222 Mass. 218; *Robinson v. Donaldson*, 251 Mass. 334; *Silverstein v. Daniel Russell Boiler Works, Inc.*, 254 Mass. 137; *Mazzuchelli v. Seretto*, 254 Mass. 159; *West v. Johnson*, 254 Mass. 161; *Crawford v. Roloson*, 254 Mass. 163; *Boston Safe Deposit & Trust Co. v. Wickham*, 254 Mass. 471; *Anderson v. Second Society of Universalists*, 259 Mass. 36; *Wright v. Wright*, 259 Mass. 74; *Gora v. Neapolitan Ice Cream Co.*, 259 Mass. 463; *Cunningham v. First Bankers Union, Inc.*, 259 Mass. 595; *Wintenberg v. Turners Falls Power & Electric Co.*, 261 Mass. 18; *Old Colony Trust Co. v. Feldman*, 261 Mass. 231; *Old Colony Trust Co. v. Pepper*, Adv. Sh. (1928), 223; *Gordon v. Willits*, Adv. Sh. (1928) 1239.

In addition to the above 15 cases, 18 cases were disposed of on motions to dismiss by rescripts without opinions between March 1, 1926, and Oct. 18, 1928. No “question of law” being involved, no report was made of the cases.

fixed periods are provided the exceptional case of hardship may be left to the discretion of the trial court under another clause in the statutes which gives the trial judge the power of his own motion to report any question of law.

We recommend the following statute:

An Act Relative to the Preparation and Entry of the Necessary Papers in Appellate Proceedings before the Full Bench of the Supreme Judicial Court.

SECTION 1. Chapter two hundred and thirty-one of the General Laws is hereby amended by striking out section one hundred and thirty-five and inserting in place thereof the following:—

Section 135. In any appellate proceeding by which questions may be carried to the full court of the supreme judicial court from any other court, the party, having the obligation to cause the papers to be prepared, shall give to the clerk, recorder, register or other appropriate official of the court in which the case is pending, within ten days after the appeal or the allowance of the bill of exceptions or the determination by the court in which the questions arose of the form of the transmitting order, an order in writing for the preparation of papers and copies of papers relating thereto for transmission to the full court of the Supreme Judicial Court. As soon as may be after the giving of such order in writing, the clerk or recorder shall make an estimate of the expense of the necessary transcripts of stenographic notes and of the preparation and transmission of the necessary papers and copies of papers and shall give the party presenting the case to the full court of the supreme judicial court notice in writing of the amount of such estimate. Such party, within twenty days after the date of such notice from the clerk or recorder, shall pay to him the amount of such estimate. The clerk or recorder then without delay shall prepare the papers and copies of papers for transmission and when they are ready shall give notice thereof in writing to the party ordering them, who, within five days after the date of such notice, shall enter the case in the full court of the supreme judicial court..

SECTION 2. Section nineteen of chapter two hundred fourteen of the General Laws is hereby amended by striking out the word "forthwith" in the sixth line thereof and by adding after the word "court" at the end of the sixth line thereof the following sentence:

"The completion of an appeal shall be governed by section one hundred thirty-five of chapter two hundred thirty-one."

SECTION 3. Section one hundred nine of chapter two hundred thirty-one of the General Laws is hereby amended by striking out the words beginning in the sixth line and extending to the eleventh line as follows,

"The necessary papers shall, at the expense of the party appealing, unless the court shall order the expense to be borne by some other party, be prepared by the clerk, who may require the estimated expense thereof to be paid in advance. The appeal shall be transmitted to and entered on the docket of the supreme judicial court within ten days after notice to the appealing party that the papers are ready for transmission,"

and substituting therefor the words,

"The completion of such appeal shall be in accordance with section one hundred thirty-five of this chapter. The court may order the expense of the necessary papers to be borne by some party other than the appealing party."

SECTION 4. This act shall take effect forthwith.

NOTE.

No amendment of G. L., c. 215, § 10, as to probate appeals is needed as that act now incorporates § 135 of c. 231 by reference. No amendment of G. L., c. 185, § 15, as to Land Court appeals seems needed as § 135 of c. 231 seems to apply to them by force of § 142 of c. 231; cf. also §§ 111-112 of c. 231 with § 15 of c. 185.

§ 3 of the draft automatically covers appeals from the appellate divisions of all district courts, because of the provisions of St. 1922, c. 532, § 8.

When actions of summary process go to the full court, they go from the Superior Court, where they have either originated, or have come by appeal from a district court (as they are not subject to the provisions as to appellate divisions in district courts, Sts. 1921, c. 486, § 36; 1922, c. 532, § 8). The new § 135, therefore, as drawn, will apply to them and should be effective in eliminating delays.

REPORT REQUESTED BY THE LEGISLATURE AS TO PROCEDURE RELATING TO GIFTS FOR PUBLIC USES AND PURPOSES.

By Resolves, Chapter 7 of 1928, the legislature

Resolved, That the Judicial Council be requested to investigate the subject matter of current house bill number four hundred and eighty-five relative to conferring jurisdiction in equity on the Supreme Judicial Court in matters of gifts and conveyances to public uses and purposes. Said council is hereby further requested to include its conclusions and recommendations relative thereto in its annual report for the current year.

House Bill No. 485 is printed below in a footnote.¹ The principal question involved arises from Section 2, which would give the right to institute proceedings not only to the Attorney-General but to "any donor or an heir of any donor." We are clearly of opinion that such a provision should not be enacted but we submit the following draft of an act which we recommend in place of it.

Draft

Amend G. L., Ch. 214, § 3, by adding a Clause 11:

"When any gift or conveyance has been or shall be made to and accepted by any

¹ HOUSE NO. 485.

AN ACT TO CONFER JURISDICTION IN EQUITY ON THE SUPREME JUDICIAL COURT IN MATTERS OF GIFTS AND CONVEYANCES TO PUBLIC USES AND PURPOSES.

SECTION 1. When any gift or conveyance to the public has been or shall be made and accepted for a specific purpose or purposes, such purpose or purposes shall be fully observed and carried out by all public officials having to do with the property affected.

SECTION 2. The Supreme Judicial Court shall have jurisdiction by proceedings in equity brought by the attorney-general, or any donor, or an heir of any donor, to enforce by appropriate decree the provisions of this act.

SECTION 3. If it shall have become impracticable to observe or to carry out the purposes of the gift or conveyance to the public, the court shall so decree and shall further decree what disposition shall be made of the property involved or to what purpose or uses it shall be devoted. The word "public" as used herein shall include the commonwealth, any county, city or town therein, and commissions and officers elected or appointed by law.

county, city, town or other subdivision of the Commonwealth for a specific purpose or purposes in trust or otherwise said courts shall have jurisdiction in equity on petition of the Attorney-General or by leave of court on the petition of any ten taxpayers of such county, city, town or other subdivision as hereinafter provided to enforce the purpose or purposes of such gift or conveyance or the terms of such trust, or if it shall have become impracticable to observe or carry out such purpose, purposes, or terms, or the occasion therefor shall have terminated, to determine the purposes or uses to which the property involved shall be devoted and enforce the same.

"The respondent in any such proceeding may set up such impracticability or termination and request the judgment of the court as to such other use of said property in its answer without filing a cross-bill or other independent proceeding. In case of a petition by ten taxpayers as above provided the Attorney-General shall be served with notice of the preliminary petition for leave and may intervene as a party at any stage and the petitioners shall be liable for costs including reasonable counsel fees in the discretion of the court which may also in its discretion award costs including reasonable counsel fees to the petitioners to be paid by the respondent or out of the fund."

In our study of this matter we have been greatly assisted by a memorandum on the law relating to enforcement of public charitable trusts based on all the English and Massachusetts cases. This report was prepared by Roland Gray, Esq., of the Boston bar, who has had much experience with this branch of the law and of whose assistance we wish to express our appreciation.

In the case of private trusts the public is not concerned and the beneficiaries have a right to apply to the court to enforce their rights under the trust.

In the case of a public charitable trust in the hands of trustees who are private citizens especially chosen for the purpose the situation is different. Unless there is an express provision reserving some reversionary or supervisory interest in the donor or his heirs, or a reversionary interest arises because the performance of the trust becomes impracticable and the Court declines to enforce any other use, they have no more legal interest in the property after the trust is established than any other member of the community. Ordinarily, trustees are selected who are honest and competent to administer the trust and they are expected to carry out its purposes. If they are in doubt as to their duty, they may ask the court for instruction. If they do not do their duty the Attorney-General, as representing the public interest which is the beneficiary, may bring proceedings, but no one else can bring them. We see no occasion for changing this rule.

There is, however, another class of gifts to the public to which the proposed legislation relates. These are gifts to a municipality

or other subdivision of the Commonwealth for a specific purpose whether in the form of a trust or not. In such cases there are no trustees specially selected and appointed by the donors or the courts to administer the trusts. The duties therefore fall of necessity on the shoulders of the elected city or town officials who have all the other concerns of the municipality to attend to, who, ordinarily, are not familiar with the duties of trustees in dealing with property and who may be, from time to time, quite out of sympathy with the purpose, or purposes, of the gift which the city or town has undertaken to carry out by accepting the gift.

This class of direct gifts to cities or towns has hitherto been rather small, but such gifts appear to be increasing in number and size.

In view of the constantly changing personnel of the municipal governments and the consequent chances of changing degrees of care and interest in observing the purposes of the gifts which the municipality has accepted, we think the general plan of providing a simple, but guarded, method of securing the observance of the terms of such gifts by court decree in proper cases to be a sound one. The difficulty with the proposed House Bill No. 485, referred to us for consideration, is that it proposes to allow a donor or any heir of any donor to start such proceedings directly. There may be more than one donor and each might have a multitude of heirs in the course of time and the donors or any generation of heirs might not agree. Some unreasonable donor or heir might cause much needless and useless work for the courts and every one else concerned. They should not be given the opportunity. As already pointed out, neither the donor nor his heirs has any more legal interest in the matter than any other member of the public after the gift has been made. They may or may not have a sentimental interest which is natural and proper and to be respected, but that may be shared and, perhaps, more wisely cherished by others who are not heirs.

We believe the natural and sound plan for the protection of the purposes of such gifts is suggested by the familiar and valuable proceeding of a taxpayers' suit by which various acts of municipal governments may be tested. We recommend that the right to initiate proceedings as to such gifts be established in the Attorney-General or by leave of court in any ten taxpayers of the municipality who shall be liable for costs. By thus requiring a preliminary petition for leave of court, ill-considered proceedings may be checked at the outset and only such as have some reasonable basis need be entertained. The existence of such a reasonable method of secur-

ing the observance of the purposes of a gift would, in our opinion, tend to make the changing representatives of the municipal governments more careful in observing the terms of such gifts and would also tend to encourage public-spirited persons, who wished to make such gifts in future, in feeling that the purpose of their gifts would be more likely to be carried out. Such generosity should not be discouraged as it is likely to be by the existing lack of opportunity.

We also believe that the existence of such a method of solving the problem will tend to prevent undesirable political friction in different municipalities. The petitioning taxpayers may or may not include donors or heirs of donors, but they will petition as taxpayers representing the public interest in complying with the terms of a gift which the municipality has accepted and not as donors or heirs.

REPORT REQUESTED BY THE LEGISLATURE ON HOUSE BILL NO. 566 RELATIVE TO LIENS.

Resolves, Chapter 47 of 1928 provides

Resolved, That the Judicial Council be requested to investigate the subject matter of current house bill No. 566, relative to liens on buildings and land, and to include its conclusions and recommendations relative thereto in its annual report for the current year.

The house bill referred to is printed in the footnote.¹

Before proceeding with our report, we respectfully call attention to the fact that the subject of building liens seems to us beyond the scope of subjects for the study of which the Judicial Council was created as set forth in St. 1924, Ch. 244, printed at the begin-

¹ HOUSE BILL NO. 566

AN ACT RELATIVE TO LIENS ON BUILDINGS AND LAND.

Chapter two hundred and fifty-four of the General Laws is hereby amended by striking out sections one to four inclusive, and inserting in place thereof the following section:—

Section 1. If, by virtue of a contract, expressed or implied, with the owner of a building or with the agents, contractors, or sub-contractors of such owner, or with any of them, or with a person who has been employed to construct, erect, alter, repair or remove a building, or to assist therein, money is due for labor performed, materials used, or labor and materials furnished in the construction, erection, alteration, repairing, or removal of such building, the person to whom such money is due shall have a lien upon said building to secure the payment of such debt, and such lien shall be preferred to all others on such building.

Section five of chapter two hundred and fifty-four of the General Laws shall be amended so as to read section two and section six so as to read section three.

Section seven of chapter two hundred and fifty-four of the General Laws shall be stricken out.

Section eight of chapter two hundred and fifty-four of the General Laws shall be stricken out and the following section, numbered section four, inserted in place thereof:—

Section 4. Such liens shall be dissolved unless the person claiming same shall, within sixty days after the labor is performed or the materials furnished, file in the registry of deeds

ning of this report. As our opinion has been requested, however, we have considered the subject as fully as the time required for other subjects would allow.

The present law of Massachusetts gives laborers a lien on the land and buildings for a limited period after the labor is performed without the filing of any previous notice of lien. No change is suggested in that law. Laborers are not in a position to extend credit and it is generally agreed that this lien is reasonable. Furthermore, the Massachusetts weekly payment law furnishes additional protection to laborers, so that resort to the lien is seldom necessary.

House Bill No. 566, introduced on behalf of those who furnish building materials, proposes to put material men on a plane with laborers as regards the enforcement of liens. That is a very different matter. Material men now have a lien under our statute provided materials are furnished by them in order to carry out a contract in writing notice of which has been filed in the registry of deeds. They do not like the requirement of a written contract or the requirement that notice must be filed, and they want to get rid of these requirements.

The present law as to liens for materials was based on the report of the special commission appointed under Resolves of 1914, Chapter 121. This report is numbered House No. 1600 of 1915. The commission consisted of Judge Charles T. Davis, of the Land Court, and Messrs. Francis M. Phelan and Samuel M. Child, all men of experience in such matters. The practical conditions of the building industry were fully explained and considered in that report.

One of our members attended a conference with the Committee of the New England Builders' Supply Association, and we have

in the county or district where the land lies, a statement, signed and sworn to by him, or by some person in his behalf, giving a just and strict account of the amount due him, with all just credits, a brief description of the property, the name of the person with whom the contract was made and the name of the owner of the property.

Section nine of chapter two hundred and fifty-four of the General Laws shall be amended so as to read section five, and the word "eight" in line one shall be stricken out and the word: — four, — inserted in place thereof.

Sections ten, eleven and twelve of chapter two hundred and fifty-four of the General Laws shall be amended so as to read sections six, seven and eight.

Section thirteen of chapter two hundred and fifty-four of the General Laws shall be stricken out.

Section fourteen of chapter two hundred and fifty-four of the General Laws shall be amended so as to read section nine, and the word "five" in line one shall be stricken out and the word: — two, — inserted in place thereof.

Sections fifteen to twenty-six, inclusive, of chapter two hundred and fifty-four of the General Laws shall be amended so as to read sections ten to twenty-one inclusive.

also received in writing the reasons of that committee and letters from individual members of that association in support of House Bill 566. We have received and examined the proposed draft of revision of the New York lien law, which was submitted to but not passed by the New York Legislature this year and the printed brief in support of that draft prepared by Messrs. Charles H. Levitt and Sidney G. DeKay, of New York. We have also received and examined the "Second Tentative Draft of a Uniform Mechanics' Lien Act" and the "Supplement" to the draft issued by the "Standard State Mechanics Lien Act Committee of the Department of Commerce" in Washington, and the carefully considered "Report by the Boston Building Congress" on those drafts. We have also received the views of members of a committee of the Massachusetts Conveyancers Association, which is composed of lawyers engaged in examination of titles to land which are directly affected by any lien law in connection with the transfer of land and the placing of mortgages. We have received copies of the lien laws of New Hampshire, Rhode Island and Connecticut.

After considering all this information, our judgment is against the passage of House Bill 566, and we recommend that the Massachusetts lien law be left as it is. In our opinion it would be against the public interest to give the material men the kind of lien which they ask for.

While people may be in more of a hurry and there may be more "jerry" building, more unwise building on "shoestring" assets and varying numbers from time to time of fraudulent contractors and other persons engaged in "shifting equities," such facts, which bear on the question of business credit, are common in some form in other lines of business. We see no indications that the underlying conditions of the building industry and the businesses connected with it have changed since the report of the special commission of 1914. The report, already referred to, of the Boston Building Congress of representatives of various branches of the industry shows that these conditions are substantially the same as they were then.

While we sympathize with the troubles of material men, we see no essential difference between the credit problems of material men and those of other lines of business. Material men now have more protection in the present lien law than other suppliers of merchandise and the question might fairly be asked, Why should they be given a lien which is not given to dealers in fertilizer, or in seeds, plants and trees, or in all the other materials which are so mixed

with other materials, before payment, as to lose their identity and be beyond the reach of a replevin suit?

The natural remedy of material men for their troubles is, in our opinion, the same as in other lines of business, i.e., more care in extending credit. If irresponsible persons could not get materials easily there would be less irresponsible building. The material men say that a stronger lien law for them would improve building conditions, but the very facts which they rely on indicate to us that such a lien law would make them worse because it would encourage still more improvident building by incompetent contractors or irresponsible owners by making it easier even than it is now to get materials. It is not in the public interest that *irresponsible* building should be encouraged in this way.

Another objection to the proposed extension of the lien for materials is that it shifts the credit risk from the material man, who is in a position to know the credit risks which he undertakes, to the owner, who is often not in such a position and who merely employs a contractor and expects him to put the job through.

A striking illustration of the way in which even a labor lien law may work sometimes is given by a case which has been called to our attention of a widow of limited means living in a country district and supporting her children. She employed a local contractor to reshingle her house. The contractor, having reshingled the house and having been paid by the widow, used all the money himself without paying even his workmen, who, thereupon, filed their liens and the poor widow was obliged to pay twice for the labor on the job! If there had been also a lien for materials such as is now proposed, she would have had to pay twice for the shingles. Yet, the man who supplied those shingles was obviously in a much better position than she was to know what sort of credit risk he was taking when he supplied the contractor.

It is customary in many businesses to allow a limited line of credit to a particular customer, the limit varying with the customer. When that limit is reached, the customer receives no more deliveries until he pays up enough to get within his allotted credit.

This whole business of credit risks is part of the business of supplying materials just as it is of any other line of commerce. It is not the business of the state to pass special statutes to relieve a particular line of business from its natural responsibilities.

The present lien law was framed on the sound policy underlying the recording acts, of giving notice of record to persons dealing with

land of facts affecting the title to that land. We consider that policy as sound now as it was when the present law was framed.

There seems to be much that might be said in favor of repealing the present lien for materials and leaving the material men in the same position as other sellers of goods. We see no reason whatever for extending their lien.

While Judge Loring has joined in the recommendations in previous reports, which he helped to prepare and which are again recommended, he has not been able to take part in all the discussions of the present year.

ADDISON L. GREEN, *Chairman*.
FRANKLIN G. FESSENDEN.
JOSEPH J. CORBETT.
WILLIAM M. PREST.
FRANK A. MILLIKEN.
ROBERT G. DODGE.
FREDERICK W. MANSFIELD.
FRANK W. GRINNELL.

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APPENDIX A.

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APPENDIX A.
HOUSE NO. 1120

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The Commonwealth of Massachusetts

EXECUTIVE DEPARTMENT, BOSTON, March 20, 1928.

man.
N.

To the Honorable Senate and House of Representatives.

I beg to transmit herewith Special Report of the Judicial Council Relative to Disposition of Petty Offences Under Motor Vehicle Laws and Local Traffic Regulations Without a Criminal Record.

L.D.

This is a subject which can well engage the attention of the Legislature, dealing with a matter of importance to every community in the Commonwealth.

ALVAN T. FULLER.

SPECIAL REPORT OF THE JUDICIAL COUNCIL RELATIVE
TO DISPOSITION OF PETTY OFFENCES UNDER MOTOR
VEHICLE LAWS AND LOCAL TRAFFIC REGULATIONS
WITHOUT A CRIMINAL RECORD.

MARCH 17, 1928.

To His Excellency ALVAN T. FULLER, *Governor of Massachusetts.*

YOUR EXCELLENCY:— In 1926, the Legislature requested the Council to consider the problem of dealing with petty offences under motor vehicle laws and traffic regulations. In its second report, the Judicial Council discussed this subject and submitted a draft of legislation which was not adopted. As a result of further study and of communications from, and conferences with, the Commissioner of Public Works, the Police Commissioner of Boston, and the former, and present, Registrar of Motor Vehicles, or their representatives, we have developed a new plan for dealing with this problem which we believe is practically workable, and the substance of which we understand to be approved by the officials already mentioned, to whom we are indebted for their assistance and suggestions in regard to the matter. In view of the fact that the problems affect so many people, relate so closely to the problem of con-

gestion of the courts, and are, therefore, of pressing importance in current discussions, we submit our new recommendations in this special report in order to bring them before Your Excellency, the public, and the members of the Legislature for discussion at the present time rather than to wait until the first of next December when our fourth annual report will be filed.

In dealing with such petty cases there are three principal objects to be accomplished as far as practicable: *first*, to remove the shadow of a criminal record for what should really not be called a crime; *second*, to reduce congestion of the criminal court dockets and eliminate the necessity of the presence of a judge; *third*, to keep police officers on their beats instead of wasting their time waiting in court houses in connection with such cases.

In discussing this subject, it should be constantly borne in mind that we are considering merely the petty automobile offences under General Laws, chapter 90, which are punishable by fine only, and the violations of local traffic regulations, for which the maximum penalty under the statutes is \$20 and the usual penalty less than \$20. Mr. Merrick, secretary of the Police Commissioner of Boston, estimated that at least 75 per cent of the persons charged on these petty cases pleaded guilty.

There are several classes of petty cases to be dealt with which seem to call for different methods of treatment.

First. Defects in the Car, such as Defective Brakes, etc. — One objection to the present method of dealing with such defects by criminal complaint and fine is that the penalty thus imposed does not cure the defect, and the defective car may be immediately driven on the road again. We believe that this sort of thing should be dealt with in a direct administrative manner by notice from the Registrar's office to the owner to appear at some designated place for inspection with the defect remedied. If this was not done the registration should be suspended until it is done.

Second. Petty Operating Offences Not Involving Defects in the Car. — In most of such cases a warning that unless the operator is careful in future his license will be suspended is all that is needed, and if after that subsequent reports show that he is a "persistent violator" the license should be suspended, or, in proper cases, revoked.

A table showing the warnings given in New Bedford during the month of August, 1926, was printed in a footnote to pages 14 and 15 of our second report. In that month 322 warnings were given for minor matters, as against between 20 and 30 cases brought into court. The New Bedford and Fall River police now report to the Registrar of Motor Vehicles all such warnings. Under General Laws, chapter 90, section 22, the Registrar has power to revoke or suspend any registration or license, subject to appeal "to the Division of Highways" under section 28. We attach in a footnote a table of suspensions and revocations

from 1920 to 1927, and of appeals and the results of the appeals from decisions of the Registrar during the same period.¹

It appears from the figures in the footnote that of the very large number of suspensions and revocations in 1927, about half were automatic as the result of various provisions of the law. The other half were the result of the exercise of the judgment of the Registrar under section 22. It appears, therefore, that out of about 15,000 suspensions and revocations there were very few appeals indeed from the Registrar's decision, and, of the appeals taken, there were reversals in about half the cases appealed, and in the other half the decision was sustained. These figures seem to indicate that the administrative method of dealing with such cases is more effective than the court method, and that the administrative appeal to the Division of Highways is a fair method of dealing with the registration or license, the power over the license being far more effective than the power to fine, the exercise of which often has but little deterrent effect.

Proceedings in court are not necessary in most petty cases, for they simply duplicate the work at present.

Nothing in either of the administrative plans recommended would prevent a complaint in court if there were any real occasion for it, but we believe that in view of the successful experiments in New Bedford and Fall River such an administrative plan for these petty matters

1 YEAR.	SUSPENSIONS AND REVOCATIONS BY REGISTRAR.		APPEALS FROM REGISTRAR TO DIVISION OF HIGHWAYS.		
	Total Sus- pensions and Re- vocations.	For Operat- ing under Influence of Liquor.	Number of Appeals.	Affirmed.	Reversed.
1920	2,944	888	5	4	1
1921	4,899	1,508	17	14	3
1922	8,369	2,460	21	8	13
1923	11,613	3,333	33	20	13
1924	14,154	4,395	41	24	17
1925	16,249	4,654	66	32	34
1926	18,705	4,863	65	34	31
1927	31,252	4,983	64	31	33

Examination of all applicants for licenses began in 1920.

Of the 31,252 suspensions and revocations during the year 1927 we were informed by the former Registrar that 8,000 were because of cancelled insurance, with no appeal; 1,547 revocations resulted from conviction by the court for reckless driving and endangering safety, with no appeal; 3,943 were because of conviction for operating under the influence of liquor; 350 for running away; and 427 for using a car without authority. These cases therefore resulted from the provisions of the law, and the appeal board had no jurisdiction. The remaining cases, amounting to about 16,000 or more, represent the judgment of the Registrar under section 22 of chapter 90. Of these, 5,668 were revoked on the ground that the persons holding them were "improper persons," 1,040 because of drinking, although there was no conviction of it; and 4,061 because of improper operation of the car. As shown by the table above, out of all these suspensions and revocations there were only 64 appeals in 1927.

operated generally throughout the State by the chiefs of police and the Registrar of Motor Vehicles, with an appeal to the Division of Highways, is worth trying, and will release the time of judges and police officers needed for other purposes.

With the two classes of cases already referred to the Registrar of Motor Vehicles is directly concerned under General Laws, chapter 90, section 20.

Third. Violations of Local Traffic Regulations, with which the Registrar's Office is Not Concerned at All. — As to these we believe that a plan somewhat similar to that in Chicago, Los Angeles and elsewhere should be tried. These local traffic regulations, such as those relating to parking, etc., differ in the 347 cities and towns in Massachusetts. General Laws, chapter 40, section 22, chapter 90, section 18, and chapter 85, section 10, authorize each city and town to make such rules, subject to penalties not exceeding \$20. The problem is not to interfere with this local power, but to provide some uniform and simple method of enforcing these varying rules without wasting the time of the courts and the police and the parties themselves. The Chicago practice is described in the "American Motorist" for April, 1926, at page 20. The experiment of the Los Angeles Traffic Bureau is described in the Appendix to this report. Briefly, the idea is that fixed penalties for successive violations within a period of twelve months should be specified by such cities and towns as may decide to try the experiment; that these violations shall not be deemed criminal offences involving a criminal record; and that when a man is charged or a car is tagged for violating such local rules provision should be made by rules of the district courts by which, when there is no dispute about the facts, the person charged may go to the clerk's office and pay the specified amount and get a receipt from the clerk, without taking up the time of the judge or of the police officer. The clerk will have a record of any previous violations of the same rule within the jurisdiction of his court within twelve months, and the penalty being fixed, the case may be disposed of at once. If the person charged wishes to contest the facts he may do so and get a hearing before the court.

In all these cases, whether under General Laws, chapter 90, section 20, or under local traffic rules in which complaints are actually made to the court, while we believe that some of the "teeth" incidental to criminal procedure are desirable to secure better observance of the regulations, we think it is a mistake to brand a person with a criminal record for a petty offence not involving moral turpitude. Today in all these petty matters the persons charged are treated in the same way as those charged with serious crimes, except in the severity of the penalty. The persons complained of are either arrested on warrant or summoned to appear in the criminal court. They are arraigned in open court and asked to plead guilty or not guilty. If they plead guilty or are found guilty a

criminal record stands against them, unless the cases are placed on file, and this record may be shown in evidence for the purpose of affecting their credibility as witnesses in court. (See General Laws, chapter 233, section 21.)

In order to carry out our recommendations we recommend two acts, as follows:

DRAFT ACT NO. 1.

[*Cf. Revised Draft in 4th Report, above, p. 41.*]

AN ACT TO PROVIDE FOR PROMPT DISPOSITION OF PETTY OFFENCES UNDER MOTOR VEHICLE LAWS WITHOUT A CRIMINAL RECORD.

SECTION 1. Section twenty of chapter ninety of the General Laws, as amended by chapter one hundred and thirty of the acts of nineteen hundred and twenty-two, is hereby further amended by striking out all after the word "months" in the eleventh line and inserting in place thereof the following:— provided, however, that the chief of police of any city or town or any executive officer or officers delegated by him, the executive officer of the state police patrol or the superintendent of the metropolitan police, instead of prosecuting offences covered by this section, may notify the registrar of motor vehicles of said violations and of his recommendations, if any, on blank forms furnished by the registrar, but such notification shall not prevent prosecution, — so as to read as follows:— *Section 20.* Any person convicted of a violation of any provision of this chapter the punishment for which is not otherwise provided, or of a violation of any rule or regulation of the registrar made under authority of section thirty-one, or of a violation of a special speed regulation lawfully made under authority of section eighteen shall be punished by a fine of not more than twenty-five dollars for the first offence, not less than twenty-five nor more than fifty dollars for a second offence, and not less than fifty nor more than one hundred dollars for subsequent offences committed during any period of twelve months; provided, however, that the chief of police of any city or town or any executive officer or officers delegated by him, the executive officer of the state police patrol or the superintendent of the metropolitan police, instead of prosecuting offences covered by this section, may notify the registrar of motor vehicles of said violations and of his recommendations, if any, on blank forms furnished by the registrar, but such notification shall not prevent prosecution. And further, by adding thereto the following section twenty A:— *Section 20A.* A person charged in court with any such violation or with a violation of any local traffic regulation or rule, may request the court to have the complaint against him taken for confessed; such request may likewise be made in his behalf and in his absence by one duly authorized. The court may in its discretion grant such request, and if satisfied that the accused has not been complained of for a like offence within a year, dismiss the complaint without arraignment, or may without arraignment and in his absence impose the penalty provided by law in such case. When such request is granted the proceedings shall not be deemed criminal.

If the penalty is imposed in the absence of the accused the court shall fix a time for its payment, and if not paid within the time so fixed a default shall be entered and the court shall issue either a warrant for the apprehension of the accused or a summons for his appearance at court as therein ordered.

DRAFT ACT NO. 2.

[*Cf. Revised Draft in 4th Report, above, p. 41.*]

AN ACT RELATIVE TO VIOLATIONS OF LOCAL TRAFFIC RULES.

SECTION 1. Violations of special local traffic regulations or rules lawfully made by virtue of General Laws, chapter forty, section twenty-two, chapter ninety, section eighteen, or chapter eighty-five, section ten, shall not be deemed to be criminal offences involving a criminal record.

SECTION 2. The authorities specified in said sections may provide specific penalties for successive violations within periods of twelve months within the city or town, or, if there is more than one judicial district in a city or town, within any one judicial district, of any such rule or regulation made by them, no one of which shall exceed twenty dollars.

SECTION 3. Any officer who takes cognizance of a violation of any such rule or regulation shall give to the person charged, or attach to the car, a card or tag in the form to be provided by rule of court hereinafter referred to, on which shall be written by him his name and the location of his headquarters or station, the name and residence if known of the person charged, the rule or regulation violated, the registration number of the car, the name, residence and license number of the driver, if known, the day and hour when the alleged violation occurred, the day and hour when notice was given or attached, and the clerk's office of the district court having jurisdiction at which the person charged or his agent or other representative is directed to appear within thirty-six hours of the time said notice was given or attached.

Said card or tag may also contain the list of penalties provided by the authorities of the city or town in which such violation occurred. A copy of said card or tag, or the substance of the notice thus given, shall be forwarded by said officer or his superior to said clerk's office.

SECTION 4. The justices or a majority of them of all the district courts, except the municipal court of the city of Boston, shall make uniform rules applicable to said courts, and the justices of the municipal court of the city of Boston, or a majority of them, shall make rules applicable to that court, providing —

First, that a person charged under the foregoing sections, or his agent or other representative, may appear at the office of the clerk of the court having jurisdiction within the time stated on said card or tag, and may request the clerk to accept the penalty for the violation of the rule or regulation as specified on the card or tag, together with a recording fee of dollars without further proceeding or action, and that the clerk upon such request shall accept the same and issue his receipt therefor and enter the payment of record in accordance with the rules and instructions of the court.

Second, that if such request is not made, the person so charged shall appear before said court at such time as shall be designated by the clerk to answer any complaint for such violation which shall be made against him, and that if the person so charged, or his agent or other representative, does not appear at the clerk's office and make the payment as directed within the time specified on such tag or card the person so charged shall be proceeded against in the ordinary way.

We see no reason why these plans which we recommend should not prove workable in practice. We think they are worth trying, and that

if they succeed they will remove a serious cause of irritation, misunderstanding and discontent with the administration of the law which now exists.

[Signed by all the members of the Council.]¹

APPENDIX.

THE EXPERIMENT OF THE TRAFFIC BUREAU IN LOS ANGELES, CALIFORNIA.

Upon inquiry, we have received the following information from a member of the California Judicial Council, Hon. Harry A. Hollzer of Los Angeles:

As a result of a number of meetings held in Los Angeles by representatives of the Los Angeles Traffic Commission, the Automobile Club of southern California, the Police Division and judges of the Municipal Court, to consider the plan of a traffic bureau patterned after those in operation in Chicago, Detroit and Kansas City, on September 28, 1927, at a meeting of these representatives, the following plan was prepared and has been in operation since that time.

That a separate office be created for the purpose of accepting bail from motorists, which office would be located in the International Bank Building; that new traffic tags be printed showing on the back of each tag an established amount of bail which would have to be deposited for each offence named thereon; that violators might deposit the amount of bail named on such tickets, and upon depositing same would not be required to come to court, and that the forfeiture of the bail named thereon should operate as a fine; that the Municipal Clerk of this Court furnish cashier to receive all money deposited as bail, which clerk would have entire charge of the office under the supervision of Mr. Dinsmore; that the City Prosecutor's office would furnish the help necessary to keep up the records of such office so as to show whether the individual offences were first, second or third violations, and that the help so furnished would be under the supervision and control of Mr. Dinsmore, and would be removed at any time Mr. Dinsmore saw fit to make requests for such removal; that at the next meeting of the Judges of the Municipal Court a proposed schedule of bail would be submitted to said judges, and at that time the said judges would approve of some schedule of bail for use in the bail office.

As explained in a letter of the Clerk of the Municipal Court, referred to in the foregoing vote, copy of which was forwarded to us by Judge Hollzer, the plan put in operation in Los Angeles was intended to carry out this idea as closely as the California statutes seem to allow through the use of a system of bails, which, under directions of the court, would be accepted as fines by the clerk when forfeited by failure to appear, the defendant, of course, having full opportunity to appear and ask for hearing if he wishes; if he does not appear, the usual formality of calling his name and declaring bail forfeited is followed, the bail then being forthwith accepted as a fine by standing order of the court.

The tag and scale of penalties used in Chicago is printed in "American Motorist" for April, 1926, pages 20-21.

A reproduction of the front and back of the tag used in Los Angeles is annexed hereto.

¹ NOTE.

Upon this report the Judiciary Committee of the Legislature reported a bill numbered House 1302, which was revised by the Committee on Third Reading into House 1321. In that form it passed to a third reading in the Senate, was slightly amended, and then rejected. (See Senate Journal, May 22 and 23, 1928.) The new revised draft now recommended by the Council will be found on p. 41.

LOS ANGELES POLICE DEPARTMENT

No. 557

Case No.
 Operator No.
 Chauffeur No.
 License No.

Driver.
 Owner.
 Address. Town.
 Time. Date.

You Violated:

Los Angeles Traffic Ordinance Sec.
 California Vehicle Act Sec.
 Approximate speed. miles per hour.
 Location of Violation. [Street location here].

You are directed to appear

At Division. Municipal Court, 320 Justicia Street, at 10.00 o'clock A.M. on the
 day of 192.....
 At the Traffic Violations Bureau, 118 W. Temple Street at Spring Street, within 36 hours.
 (You may appear in person with this notice or send this notice by messenger with the Bail specified.)
 Failure to appear will result in warrant of arrest being issued.

Signed.
 Police Officer.

I hereby agree to be at the place and time designated.

Dated this. day of
 Signature of Driver.
 Address.

SCHEDULE OF BAILS AUTHORITY OF POLICE

Sec.	1st	2nd	3rd
2	Disobedience to Officers. \$3	\$5	\$10
4	Disobedience to Signs. 3	5	10
6	Unauthorized Erection of Signs. 3	5	10
PEDESTRIANS			
10	Use of Roadways. \$1	\$3	\$5
12	Pedestrians walking against signal. 1	3	5
13	Pedestrians standing sidewalk. 1	3	5
RULES FOR DRIVING			
7	Driving in safety zone or on sidewalk. Court	Court	Court
9	Crosswalk violation. Court	Court	Court
14-1	Cutting Button. \$3	\$5	\$10
14-2	Left turn second line. 3	5	10
14-3	Left turn prohibited. 3	5	10
14-4	Complete turn at intersection. 3	5	10
14-5	Right turn second line. 3	5	10
15	One-way alley. 1	3	5
16	Failure to stop leaving alley. 3	5	10
17-1	Freight vehicle more than 8½ feet. 3	5	10
17-2	Carrying building material. 3	5	10
17-3	Freight vehicle with trailer. 3	5	10
17-4	Freight vehicle crude oil. 3	5	10
17-5	Rubbish. 3	5	10
18	Horse-drawn vehicle. 3	5	10
18-A	Obstructing traffic. 3	5	10
19	Scattering load. 3	5	10
20	Boulevard. Stop. 3	5	10
21	Following fire apparatus. 3	5	10
22	Funeral procession. 5	10	15
23	Motorcycles and bicycles. 1	3	5
24	Clinging vehicles. 1	3	5
24½	Commercial vehicles on Venice Speedway. 3	5	10
PARKING			
25-1	Blocking intersection. \$3	\$5	\$10
25-2	Blocking crosswalk. 3	5	10
25-3	Dble parking more than 1 ft. from Curb. 3	5	10
25-4	Private driveway. 3	5	10
25-5	Fire Plug. 3	5	10
25-6	Safety zone. 3	5	10
25-7	Portal of tunnel. 3	5	10
25-8	15 ft. of intersection. 3	5	10
27	Parking 4.30 to 6.00 P.M. 1	3	5
28	1 hour limit. 1	3	5
28	Forty-five minutes. 1	3	5
28½A	2nd Street. 1	3	5
28½B	Lyman Place. 1	3	5

PARKING (Continued)

Sec.	1st	2nd	3rd
28½C	St. Vincent Place. \$1	\$3	\$5
29	2 to 4 A.M. 1	3	5
30	Angle Parking. 1	3	5
31	For Sale. 1	3	5
32	Street car right-of-way. 1	3	5
33	Trains blocking intersection. Court		
34	Street Car speed. Court		
35A	Passing street car on left. Court		
35B	Passing standing street car. \$5	\$10	Court
36	Boarding street cars. 3	5	\$10
37	Riding on car steps. 1	3	5
LOADING			
26-1	12 per cent grade. \$1	\$3	\$5
26-2-3	Loading zones. 1	3	5
26-4	Hospital. 1	3	5
26-5	Police Station. 1	3	5
26-6	Alley. 1	3	5
26-D	Bus Stop. 1	3	5
VIOLATIONS OF CALIFORNIA VEHICLE ACT			
41	Certificate of registration. \$3	Court	Court
43	License Plates. 3	"	"
53	Change of address. 5	"	"
58-67-68	Operator's and Chauffeur's license. 5	"	"
84	Loads on passenger vehicles. 5	"	"
85	Weight of loads. 15	"	"
86	Width of tires. 15	"	"
94	Brakes. 5	"	"
96	Mufflers—Noise, etc. 5	"	"
97	Mirrors. 5	"	"
98	Windshields. 5	"	"
99	Lights. 5	"	"
103	Lights—Motorcycles. 5	"	"
105	Lights—Bicycles. 5	"	"
106	Tail-lights. 5	"	"
108	Spot-lights. 5	"	"
109	Lights—Parked cars. 5	"	"
110	Light or Flag on Load. 5	"	"
122	Drive on right side of highway. 5	"	"
124	Keep to right in passing. 5	"	"
125	Overtaking a vehicle. 5	"	"
126	Give way to overtaking vehicle. 5	"	"
128	Turning in street. 5	"	"
129	Turning at street intersections. (See Ordinance schedule)		
130	Signals on turning. 5	Court	Court
131	Right of Way. 5	"	"
134	Passing Street Cars. (See Ordinance Schedule)		

APPENDIX B.

STATISTICAL TABLES.

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STATISTICAL TABLES.

TABLE OF CASES DECIDED BY THE SUPREME JUDICIAL COURT, 1874-1927.

COURT YEAR BEGINNING SEPTEMBER 1.	Number of Cases Decided.	Reported in the Following Volumes of Massachusetts Reports.	COURT YEAR BEGINNING SEPTEMBER 1.	Number of Cases Decided.	Reported in the Following Volumes of Massachusetts Reports.
1874	394	115, 116, 117, 118	1901	381	179, 180, 181, 182
1875	418	118, 119, 120	1902	348	182, 183, 184
1876	403	120, 121, 122, 123	1903	354	184, 185, 186
1877	388	123, 124, 125	1904	384	186, 187, 188
1878	334	125, 126, 127	1905	484	188, 189, 190, 191, 192
1879	316	127, 128, 129	1906	441	192, 193, 194, 195, 196
1880	372	129, 130, 131	1907	397	196, 197, 198, 199
1881	293	131, 132, 133	1908	413	199, 200, 201, 202, 203
1882	344	133, 134, 135	1909	356	203, 204, 205, 206
1883	374	135, 136, 137	1910	390	206, 207, 208, 209
1884	367	137, 138, 139, 140	1911	388	209, 210, 211, 212
1885	385	140, 141, 142	1912	427	212, 213, 214, 215
1886	399	142, 143, 144, 145	1913	472	215, 216, 217, 218
1887	321	145, 146, 147	1914	432	218, 219, 220, 221
1888	349	147, 148, 149	1915	433	221, 222, 223, 224
1889	344	149, 150, 151, 152	1916	417	224, 225, 226, 227, 228
1890	321	152, 153, 154	1917	391	228, 229, 230, 231
1891	422	154, 155, 156, 157	1918	340	231, 232, 233
1892	354	157, 158, 159	1919	341	233, 234, 235, 236
1893	341	159, 160, 161, 162	1920	378	236, 237, 238, 239
1894	333	162, 163, 164	1921	356	239, 240, 241, 242
1895	356	164, 165, 166	1922	397	242, 243, 244, 245, 246
1896	371	166, 167, 168, 169	1923	422	246, 247, 248, 249
1897	397	169, 170, 171, 172	1924	419	249, 250, 251, 252, 253
1898	339	172, 173, 174	1925	483	253, 254, 255, 256, 257
1899	366	174, 175, 176	1926	515	257, 258, 259
1900	381	176, 177, 178, 179	1927	467 ¹	

¹ Including 3 advisory opinions.

SUPREME JUDICIAL COURT ENTRIES FOR ALL COUNTIES,
SEPTEMBER 1, 1927, TO SEPTEMBER 1, 1928.

(Not including Full Bench Cases.)

COUNTY.	Equity.	Trans- ferred to Superior Court.	Referred to Masters.	Pre- rogative Writs.	Petitions for Admission to Bar.	Other Proceed- ings.
Worcester	1	—	—	3	—	1
Essex	5	2	—	8	—	—
Plymouth	1	—	1	2	—	1
Middlesex	1	—	1	20	5	3
Norfolk	2	1	1	6	—	2
Franklin	—	—	—	—	—	—
Hampden	1	—	—	5	—	1
Berkshire	—	—	—	1	4	—
Barnstable	—	—	—	2	1	—
Bristol	1	—	1	24	6	2
Nantucket	—	—	—	—	—	—
Dukes	—	—	—	—	—	—
Hampshire	—	—	—	—	2	4
Suffolk	122	4	10	76	1,251	1,095
Totals	134	7	14	147	1,269	1,109

DETAILED ENTRIES IN THE SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY,
REFERRED TO IN THE TABLE ABOVE.

<i>Law Docket.</i>						
Petitions for admission to the bar						1,251
" " writs of Mandamus						29
" " " Habeas Corpus						20
" " " Certiorari						9
" " " Error						11
" " " Prohibition						3
Informations in the nature of Quo Warranto						4
Petitions for Disbarment						1
Applications under G. L., c. 233, s. 10						1
Applications under G. L., c. 112, s. 64						1
Applications under G. L., c. 123, s. 91 and s. 92						3
Total entries on Law Docket						1,333
<i>Equity Docket.</i>						
Suits in equity						122
Informations by the Attorney General (for failure to file corporation returns, etc.)						1,089
Total entries on Equity Docket						1,211
Total entries on both Dockets						2,544

FULL BENCH CASES.

During the year ending August 31, 1928, the Full Bench decided 464 cases including 19 cases in which there were rescripts but no opinions. There were also 3 advisory opinions of the justices rendered at the request of the legislature.

SUPERIOR COURT CRIMINAL BUSINESS FOR YEAR ENDING JUNE 30, 1928.
Table prepared by T. Francis O'Brien, Esq., from returns of Clerks of Court to the Secretary of the Commonwealth.

COUNTIES.	1	2A	2B	2C	2D	3	4	5A	5B	6
	Number remaining at first of year.	Number of indictments returned.	Number of appeal cases.	Number of actions on bail bonds or recognizances entered.	Number disposed of in previous year. (In Berkshire they reported in addition: No Bills, 6. Petition for review, 1.)	Number disposed of during year by execution of judgment or other final disposition or on file, on probation or by nolle prosequi, including cases brought forward from previous years and redispensed of.	Number remaining at end of year, including those which have been brought forward from previous years and await re-disposition, and excluding those which have been disposed of as specified in No. 3.	Number tried during year.	Number awaiting trial at end of year.	Number of days during which court has sat for trials, hearings, dispositions or redispersions.
Barnstable .	55	38	66	0	0	90	69	15	49	10
Berkshire .	174	53	55	0	1	164	126	16	95	54
Bristol .	1,151	280	702	51	0	1,129	1,052	71	794	81
Dukes .	10	1	3	0	0	3	3	0	1	2
Essex .	1,066	397	1,253	30	17	2,239	541	258	400	196
Franklin .	43	30	41	0	2	60	24	9	19	13
Hampden .	449	221	256	37	4	677	290	65	283	69
Hampshire .	75	47	116	0	11	119	130	24	111	15
Massachusetts .	336	1,108	1,484	14	29	2,570	401	532	362	308
Middlesex .	0	0	4	0	0	4	0	0	0	1
Nantucket .	0	0	0	0	0	0	0	4	0	1
Norfolk .	438	204	396	4	27	871	198	114	198	198
Plymouth .	381	286	341	4	22	816	168	89	177	77
Suffolk .	615	1,069	4,712	92	728	6,322	834	879	546	576
Worcester .	269	332	1,021	30	50	1,374	138	146	120	165
Total .	5,043	4,005	10,455	287	971	16,764	4,001	2,192	3,119	1,728

These tables may be subject to slight corrections, as the figures had to be taken from the returns before they could be checked up and tabulated by the Secretary's office.

CIVIL BUSINESS, SUPERIOR COURT, FOR YEAR ENDING JUNE 30, 1928.
Table prepared by T. Francis O'Brien, Esq., for the Judicial Council, from returns of Clerks of Court to the Secretary of the Commonwealth.

COUNTY.	1				2A				2B				2C		2D	
	NUMBER PENDING AT BEGINNING OF YEAR, INCLUDING PENDING "INACTIVE" CASES.				NUMBER OF NEW CASES ENTERED.				NUMBER DISPOSED OF IN PREVIOUS YEARS AND BROUGHT FORWARD THIS YEAR.				NUMBER TRANSFERRED TO EQUITY.		NUMBER TRANSFERRED TO LAW.	
	CIVIL CASES.				CIVIL CASES.				CIVIL CASES.				CIVIL CASES.		CIVIL CASES.	
	Law.	Equity.	Divorce and Nullity.		Law.	Equity.	Divorce and Nullity.		Law.	Equity.	Divorce and Nullity.		Law.			Equity.
Barnstable	236	41	20		177	19	0		0	0	0		0		0	
Berkshire	430	103	45		241	28	1		0	0	0		0		0	
Bristol	1,984	368	191		1,150	129	2		0	0	0		0		0	
Dukes	37	6	8		22	1	1		0	0	0		0		0	
Essex	4,816	708	267		2,703	217	10		0	0	0		1		0	
Franklin	342	101	28		176	17	1		1	0	0		0		0	
Hampden	3,229	676	629		1,862	200	334		0	0	0		0		1	
Hampshire	337	74	35		167	16	4		0	0	0		0		0	
Middlesex	9,263	1,122	95		5,107	424	14		36	0	0		0		2	
Nantucket	0	0	0		11	1	0		0	0	0		0		0	
Norfolk	2,243	237	113		1,400	103	3		4	0	0		1		0	
Plymouth	1,345	295	187		621	56	37		0	0	0		1		0	
Suffolk	25,348	4,604	325		16,270	1,920	40		22	0	0		14		9	
Worcester	4,376	516	200		2,642	261	2		0	0	0		0		0	
Total	53,986	8,791	2,143		32,551	3,392	469		63	0	0		17		12	

These tables may be subject to slight corrections, as the figures had to be taken from the returns before they could be checked up and tabulated by the Secretary's office.

CIVIL BUSINESS, SUPERIOR COURT, FOR YEAR ENDING JUNE 30, 1928 — Concluded.
 Table prepared by T. Francis O'Brien, Esq., for the Judicial Council, from returns of Clerks of Court to the Secretary of the Commonwealth.

COUNTIES.	5C				6				7				8			
	NUMBER AWAITING TRIAL AT END OF YEAR.				NUMBER MARKED INACTIVE DURING THE YEAR UNDER RULE OF THE COURT.				NUMBER MARKED INACTIVE AT ANY TIME PENDING AT END OF YEAR, AND SUBJECT TO DISMISSAL UNDER THE RULE.				NUMBER OF DAYS DURING WHICH COURT HAS SAT FOR HEARINGS OR TRIALS.			
	CIVIL CASES.				CIVIL CASES.				CIVIL CASES.				CIVIL CASES.			
	Jury (Law).	Without Jury (Law).	Equity.	Divorce and Nullity.	Jury (Law).	Without Jury (Law).	Equity.	Divorce and Nullity.	Jury (Law).	Without Jury (Law).	Equity.	Divorce and Nullity.	Jury (Law).	Without Jury (Law).		
Barnstable	208	101	52	20	29	11	0	0	42	27	18	15	12		1	
Berkshire	360	137	107	44	50	17	17	0	98	52	32	41	34		17½	
Bristol	1,825	410	409	187	247	44	188	1	-	-	-	-	151		28	
Dukes	-	-	-	-	3	18	4	0	0	0	0	0	0		2½	
Essex	-	-	-	-	599	81	103	5	1,141	197	345	252	367		59	
Franklin	139	21	24	1	16	15	11	1	54	38	40	24	27		2	
Hampden	2,664	882	722	466	305	115	120	101	660	294	246	126	217		102	
Hampshire	243	99	38	37	46	23	11	5	63	34	20	31	27½		4	
Middlesex	9,162	1,769	1,300	70	1,549	311	150	19	2,318	461	451	29	517		64	
Nantucket	3	4	1	0	0	0	0	0	0	0	0	0	1		1	
Norfolk	2,196	563	283	108	316	62	36	4	523	126	62	99	150		25	
Plymouth	1,073	268	82	162	174	73	30	10	308	141	70	112	87		22	
Suffolk	24,179	4,821	5,072	265	2,015	565	965	39	8,026	2,818	2,081	109	1,548		776	
Worcester	4,165	861	548	197	784	176	73	4	1,108	315	139	192	236		135	
Total	45,217	9,228	6,070	1,307	6,133	1,511	1,708	189	14,341	4,503	3,504	1,120	3,374½		1,238½	

¹ Exclusive of 6 days that the Grand Jury sat.

Tables showing the amounts claimed in the writ (known to lawyers as the *ad damnum*) and the verdicts and findings in all cases tried with or without jury in the Superior Court in every county in the Commonwealth during the year ending June 30, 1928. The tables were prepared for the Judicial Council by T. Francis O'Brien, Esq., of the Middlesex bar.

SUFFOLK COUNTY.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES—JURY AND JURY WAIVED SESSIONS.					
Jury	Torts	.	.	1,511	
	Contracts	.	.	486	Total 1,997
Jury Waived	Torts	.	.	133	
	Contracts	.	.	88	Total 221
Cases in both sessions, total					2,218

TORTS DISTINGUISHED.					
Jury	Motor Vehicle Torts	.	(not separated)	Jury Waived	Motor Vehicle Torts 95
	All Torts	.	1,511		(Other Torts 38

TABLE OF VERDICTS AND FINDINGS.					
			Contracts.		
Jury	Verdicts for			Findings for	
	Plaintiff	.	199	Plaintiff	. . . . . 52
	Defendant	.	117	Jury Waived	Defendant 12
	Settled, etc.	.	170	Settled, etc.	. . . . . 24

MOTOR VEHICLE TORTS.					
Jury Sessions	.	.	(not separated)	Jury Waived	Findings for
					Plaintiff 93
					Defendant 1
					Settled, etc. 1

ALL TORTS.			TORTS OTHER THAN MOTOR VEHICLE.		
Jury	Verdicts for			Findings for	
	Plaintiff	.	333	Plaintiff	. . . . . 28
	Defendant	.	353	Jury Waived	Defendant 9
	Settled, etc.	.	825	Settled, etc.	. . . . . 1

OTHER DISPOSITIONS.					
Torts.				Contracts.	
Settled	414	.	.	.	112
Defaults	96	.	.	.	30
Nonsuits	142	.	.	.	13
Continued	140	.	.	.	17
Discontinued	14	.	.	.	2
Disagreements	16	.	.	.	4
Mistrials	2	.	.	.	1
Hearing discontinued	0	.	.	.	2
Dismissed	1	.	.	.	0
Referred to Auditor	0	.	.	.	5
Suspended	1	.	.	.	—
Motions	1	.	.	.	8
Total	827	.	.	Total	194

dam-
rior
1928.
of the

SUFFOLK COUNTY — Continued.
SCHEDULE OF AMOUNTS CLAIMED, SHOWING VERDICTS.
TORTS — JURY SESSIONS.

Amounts Claimed in Writ.

1,997

221

2,218

95

38

52

12

24

93

1

1

ICLE.

28

9

1

Contracts.

112

30

13

17

2

4

1

2

0

5

-

8

194

\$3,000 or Less.		\$3,000 to \$5,000.				\$5,000 to \$10,000.		Over \$10,000.	
VER- DICTS.	VER- DICTS.	VER- DICTS.	VER- DICTS.	VER- DICTS.	VER- DICTS.	VER- DICTS.	VER- DICTS.	VER- DICTS.	VER- DICTS.
\$2,250 00	\$150 00	\$5,000 00	\$1,250 00	\$500 00	\$250 00	\$8,500 00	\$1,500 00	\$322,400 00	\$5,000 00
1,260 00	150 00	4,104 00	1,200 00	500 00	250 00	8,050 00	1,400 00	25,000 00	5,000 00
1,000 00	125 00	4,000 00	1,139 00	500 00	200 00	6,500 00	1,375 00	25,000 00	4,750 00
1,000 00	125 00	4,000 00	1,100 00	500 00	200 00	5,635 00	1,260 00	25,000 00	4,670 00
800 00	125 00	3,000 00	1,050 00	500 00	200 00	5,400 00	1,250 00	17,500 00	4,500 00
750 00	125 00	2,750 00	1,000 00	500 00	200 00	5,000 00	1,200 00	15,320 00	4,500 00
750 00	123 00	2,700 00	1,000 00	500 00	156 00	4,850 00	1,000 00	10,367 00	4,000 00
726 00	108 00	2,500 00	1,000 00	500 00	150 00	4,000 00	1,000 00	10,000 00	4,000 00
725 00	100 00	2,500 00	1,000 00	500 00	150 00	4,000 00	1,000 00	10,000 00	4,000 00
700 00	100 00	2,500 00	1,000 00	500 00	150 00	3,684 00	900 00	9,794 00	3,000 00
700 00	80 00	2,500 00	1,000 00	480 00	150 00	3,500 00	800 00	9,000 00	3,000 00
524 00	75 00	2,300 00	975 00	450 00	125 00	3,400 00	766 00	7,728 00	3,000 00
500 00	75 00	2,166 00	913 00	450 00	125 00	3,250 00	760 00	7,500 00	2,500 00
500 00	75 00	2,150 00	866 00	400 00	100 00	3,000 00	750 00	7,500 00	2,500 00
500 00	75 00	2,000 00	800 00	400 00	100 00	3,000 00	700 00	7,500 00	2,400 00
500 00	75 00	2,000 00	766 00	375 00	100 00	3,000 00	500 00	7,250 00	2,250 00
450 00	50 00	2,000 00	750 00	350 00	100 00	3,000 00	500 00	7,000 00	2,200 00
400 00	50 00	1,964 00	700 00	350 00	75 00	2,850 00	500 00	6,949 00	2,193 00
400 00	30 00	1,950 00	700 00	350 00	61 00	2,500 00	500 00	6,745 00	2,000 00
380 00	25 00	1,750 00	700 00	350 00	50 00	2,500 00	440 00	6,666 00	1,775 00
300 00		1,600 00	675 00	325 00	50 00	2,500 00	400 00	6,600 00	1,500 00
300 00		1,500 00	600 00	300 00	10 00	2,500 00	300 00	6,500 00	1,500 00
300 00		1,500 00	600 00	300 00	1 00	2,500 00	300 00	6,500 00	1,250 00
300 00		1,500 00	575 00	300 00	1 00	2,500 00	270 00	6,000 00	1,200 00
289 00		1,500 00	558 00	300 00		2,250 00	210 00	5,500 00	1,000 00
251 00		1,500 00	500 00	300 00		2,100 00	200 00	5,094 00	1,000 00
250 00		1,500 00	500 00	300 00		2,092 00	200 00	5,000 00	720 00
250 00		1,500 00	500 00	300 00		2,000 00	125 00	5,000 00	650 00
240 00		1,500 00	500 00	300 00		2,000 00	75 00	5,000 00	600 00
220 00		1,430 00	500 00	290 00		1,754 00	50 00	5,000 00	1 00
200 00		1,400 00	500 00	284 00		1,750 00		5,000 00	1 00
200 00		1,400 00	500 00	250 00		1,600 00		5,000 00	1 00
200 00		1,272 00	500 00	250 00		1,500 00		5,000 00	
200 00		1,258 00	500 00	250 00				5,000 00	

¹ Tort for procuring breach of a builder's contract.

SUFFOLK COUNTY — *Continued.*

SCHEDULE OF AMOUNTS CLAIMED, SHOWING FINDINGS.

MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed in Writ.</i>				
\$3,000 or Less.	\$3,000 to \$5,000.		\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.
\$3,000 00	\$4,000 00	\$566 00	\$7,000 00	\$12,500 00
3,000 00	2,500 00	500 00	5,648 00	12,500 00
1,800 00	2,500 00	438 00	3,500 00	12,500 00
579 00	2,000 00	400 00	3,000 00	10,000 00
400 00	2,000 00	350 00	2,500 00	6,500 00
400 00	1,800 00	300 00	2,500 00	6,000 00
370 00	1,750 00	300 00	2,500 00	5,000 00
350 00	1,500 00	300 00	1,800 00	1,150 00
250 00	1,500 00	300 00	1,284 00	1,000 00
250 00	1,200 00	289 00	1,200 00	1,000 00
210 00	1,051 00	250 00	1,200 00	700 00
125 00	1,000 00	200 00	1,093 00	450 00
	965 00	200 00	1,000 00	400 00
	848 00	200 00		
	836 00	100 00	900 00	
	750 00	50 00	750 00	
	750 00		510 00	
	750 00		500 00	
	750 00		500 00	
	750 00		350 00	
	750 00		350 00	
	750 00		250 00	
	750 00		200 00	
	700 00		150 00	
	582 00		50 00	
	582 00		35 00	

OTHER TORTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.
\$1,209 00	\$521 00	\$450 00	\$15,240 00
1,200 00	400 00		
1,000 00	400 00		
600 00	150 00		
505 00	142 00		
500 00	125 00		
500 00	125 00		
419 00	100 00		
408 00	100 00		
350 00	150 00		
300 00			
250 00			
225 00			
200 00			
128 00			
52 00			

SUFFOLK COUNTY — *Concluded.*

SCHEDULE OF AMOUNTS CLAIMED, SHOWING VERDICTS.

CONTRACTS — JURY SESSIONS.

Amounts Claimed.

\$3,000 or Less.						\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$2,000 00	\$1,000 00	\$684 00	\$458 00	\$254 00	\$151 00	\$6,757 00	\$7,355 00	\$39,746 00
1,930 00	961 00	684 00	453 00	250 00	142 00	3,497 00	5,600 00	33,875 00
1,615 00	958 00	674 00	440 00	250 00	133 00	3,493 00	4,036 00	19,082 00
1,605 00	942 00	661 00	437 00	250 00	130 00	3,315 00	3,080 00	15,790 00
1,600 00	906 00	660 00	414 00	245 00	126 00	3,136 00	2,898 00	15,187 00
1,521 00	884 00	650 00	409 00	244 00	124 00	3,038 00	894 00	8,663 00
1,481 00	882 00	647 00	408 00	241 00	122 00	2,898 00	603 00	8,307 00
1,481 00	877 00	635 00	406 00	233 00	121 00	2,752 00		8,304 00
1,469 00	865 00	631 00	390 00	223 00	121 00	2,375 00		2,350 00
1,459 00	853 00	612 00	378 00	223 00	117 00	1,766 00		1,214 00
1,456 00	832 00	612 00	373 00	220 00	101 00	1,600 00		
1,452 00	827 00	610 00	372 00	204 00	100 00	1,500 00		
1,410 00	802 00	600 00	350 00	203 00	94 00	1,330 00		
1,404 00	800 00	590 00	345 00	200 00	78 00	1,232 00		
1,380 00	791 00	590 00	344 00	193 00	77 00	1,185 00		
1,320 00	766 00	588 00	338 00	191 00	66 00	1,035 00		
1,318 00	763 00	576 00	333 00	173 00	61 00	837 00		
1,258 00	757 00	560 00	323 00	172 00	55 00	205 00		
1,210 00	754 00	545 00	312 00	171 00	51 00			
1,183 00	749 00	542 00	309 00	167 00	51 00			
1,103 00	746 00	533 00	309 00	164 00	41 00			
1,085 00	745 00	528 00	306 00	161 00	19 00			
1,061 00	725 00	524 00	301 00	159 00	16 00			
1,026 00	719 00	519 00	301 00	156 00	56			
1,021 00	715 00	513 00	300 00	155 00				
1,017 00	700 00	505 00	275 00	155 00				
1,003 00	690 00	469 00	272 00	153 00				
1,002 00	684 00	466 00	260 00	153 00				

SCHEDULE OF AMOUNTS CLAIMED, SHOWING FINDINGS.

CONTRACTS — JURY WAIVED SESSIONS.

Amounts Claimed.

\$3,000 or Less.						\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.
\$2,505 00	\$611 00	\$477 00	\$264 00	\$168 00	\$112 00	\$3,000 00	\$6,000 00	\$3,500 00
2,188 00	553 00	442 00	250 00	151 00	88 00	3,000 00	5,540 00	2,500 00
1,936 00	552 00	359 00	243 00	148 00	96 00	1,171 00	1,329 00	
1,530 00	524 00	316 00	243 00	140 00	80 00	734 00		
1,000 00	513 00	313 00	222 00	133 00	10 00			
705 00	505 00	301 00	200 00	125 00				
634 00	500 00	300 00	180 00					
631 00	500 00	285 00	169 00					

MIDDLESEX COUNTY, SUPERIOR COURT.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES—JURY AND JURY WAIVED SESSIONS.						
Jury	{	Torts	420	Total	526	
		Contracts	106			
Jury Waived	{	Torts	33	Total	59	
		Contracts	26			
Cases in both sessions, total			585			

TORTS DISTINGUISHED.					
<i>Jury</i>	{Motor Vehicle Torts	306	<i>Jury Waived</i>	{Motor Vehicle Torts	18
	{Other Torts	114		{Other Torts	15

TABLE OF VERDICTS AND FINDINGS.					
Verdict for			Finding for		
			Contracts.		
<i>Jury</i>	{Plaintiff	67	<i>Jury Waived</i>	{Plaintiff	13
	{Defendant	19		{Defendant	8
	{Settled, etc.	20		{Settled, etc.	5

MOTOR VEHICLE TORTS.					
<i>Jury</i>	{Plaintiff	121	<i>Jury Waived</i>	{Plaintiff	9
	{Defendant	121		{Defendant	7
	{Settled, etc.	64		{Settled, etc.	2

OTHER TORTS.					
<i>Jury</i>	{Plaintiff	48	<i>Jury Waived</i>	{Plaintiff	10
	{Defendant	40		{Defendant	5
	{Settled, etc.	26		{Settled, etc.	0

OTHER DISPOSITIONS.					
			Contracts.		
Settled			17		74
Continued			4		11
Discontinued			1		1
Mistrial			2		5
Disagreements			0		1
Decision pending			1		
Total		25	Total		92

MIDDLESEX COUNTY, SUPERIOR COURT — *Continued.*

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

MOTOR VEHICLE TORTS — JURY SESSIONS.

<i>Amounts Claimed.</i>				
\$3,000 or Less.		\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$1,250 00	\$140 00	\$3,000 00	\$10,000 00	\$10,075 00
1,200 00	134 00	2,300 00	8,100 00	10,000 00
1,086 00	118 00	1,800 00	7,000 00	10,000 00
1,086 00	114 00	1,500 00	7,000 00	6,500 00
1,000 00	102 00	1,185 00	6,500 00	6,500 00
1,000 00	100 00	1,050 00	6,400 00	5,000 00
1,000 00	100 00	1,000 00	4,500 00	5,000 00
836 00	100 00	1,000 00	4,000 00	3,000 00
800 00	100 00	1,000 00	4,000 00	2,200 00
750 00	100 00	970 00	4,000 00	2,000 00
500 00	100 00	800 00	4,000 00	1,285 00
500 00	100 00	726 00	2,800 00	608 00
500 00	100 00	600 00	2,000 00	
450 00	100 00	600 00	1,500 00	
400 00	50 00	600 00	1,250 00	
350 00	50 00	566 00	1,200 00	
347 00	50 00	400 00	1,185 00	
338 00	40 00	250 00	1,000 00	
300 00	35 00	250 00	850 00	
300 00	29 00	200 00	825 00	
300 00	24 00	150 00	691 00	
255 00	5 00	100 00	591 00	
250 00		100 00	500 00	
225 00		76 00	500 00	
200 00		65 00	500 00	
200 00		25 00	500 00	
169 00		25 00	300 00	
150 00		25 00	100 00	
150 00		15 00		

OTHER TORTS — JURY SESSIONS.

<i>Amounts Claimed.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$550 00	\$1,500 00	\$4,295 00	\$20,000 00
300 00	1,000 00	2,809 00	12,500 00
225 00	500 00	2,500 00	12,200 00
126 00	500 00	2,000 00	11,000 00
100 00	500 00	2,000 00	7,625 00
100 00	200 00	1,785 00	6,500 00
80 00	200 00	1,000 00	5,000 00
75 00	150 00	1,000 00	4,000 00
50 00	50 00	750 00	2,500 00
	34 00	522 00	1,500 00
	25 00	500 00	1,500 00
		400 00	1,200 00
		200 00	500 00
			500 00
			460 00

MIDDLESEX COUNTY, SUPERIOR COURT — *Continued.*

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDINGS.

MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.
\$967 00 250 00 200 00 125 00 38 00	\$125 00	\$200 00	\$7,000 00 4,000 00

OTHER TORTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>		
\$3,000 or Less.	\$3,000 to \$5,000.	Over \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.
\$1,308 00 296 00 209 00 75 00 10 00 1 00	\$400 00 50 00	\$6,000 00 5,000 00

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

CONTRACTS — JURY SESSIONS.

<i>Amounts Claimed.</i>						
\$3,000 or Less.				\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$2,816 00	\$955 00	\$475 00	\$236 00	\$2,500 00	\$4,299 00	\$8,570 00
2,148 00	848 00	460 00	209 00	2,214 00	3,000 00	7,843 00
2,005 00	811 00	430 00	206 00	2,141 00	870 00	
1,908 00	793 00	414 00	204 00	1,000 00	150 00	
1,658 00	746 00	372 00	169 00		1 00	
1,650 00	714 00	370 00	160 00			
1,633 00	708 00	363 00	125 00			
1,623 00	696 00	354 00	100 00			
1,604 00	684 00	350 00	97 00			
1,503 00	659 00	330 00	86 00			
1,494 00	527 00	291 00	82 00			
1,372 00	517 00	283 00	76 00			
1,138 00	512 00	275 00	73 00			
1,100 00	500 00	263 00	5 00			

ESSEX COUNTY, SUPERIOR COURT — *Continued.*

SCHEDULE SHOWING AMOUNTS CLAIMED AND VERDICTS.

TORTS — JURY SESSIONS.

<i>Amounts Claimed.</i>					
\$3,000 or Less.		\$3,000 to \$5,000.		\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$1,394 00	\$250 00	\$2,500 00	\$300 00	\$10,000 00	\$10,577 00
1,000 00	250 00	2,500 00	300 00	8,000 00	9,927 00
800 00	250 00	2,000 00	250 00	8,000 00	8,500 00
800 00	250 00	2,000 00	200 00	3,000 00	8,458 00
706 00	250 00	1,758 00	200 00	2,800 00	8,000 00
700 00	200 00	1,534 00	163 00	2,750 00	6,000 00
650 00	200 00	1,500 00	150 00	2,400 00	5,029 00
600 00	200 00	1,150 00	126 00	1,000 00	5,029 00
600 00	200 00	1,080 00	105 00	850 00	3,252 00
600 00	200 00	1,000 00	100 00	804 00	2,873 00
600 00	199 00	1,000 00	81 00	750 00	1,800 00
559 00	175 00	800 00	81 00	595 00	1,500 00
500 00	150 00	737 00	79 00	548 00	1,500 00
432 00	150 00	715 00		500 00	1,046 00
426 00	150 00	565 00		450 00	1,000 00
400 00	125 00	500 00		307 00	314 00
350 00	100 00	500 00		200 00	100 00
350 00	85 00	400 00			100 00
300 00	50 00	355 00			
250 00	7 00	325 00			

SCHEDULE OF AMOUNTS CLAIMED, SHOWING FINDINGS.

TORTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.
\$1,000 00	\$550 00	\$8,500 00	\$1,000 00
550 00			
275 00			
210 00			
125 00			

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

CONTRACTS — JURY SESSIONS.

<i>Amounts Claimed.</i>						
\$3,000 or Less.				\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$2,400 00	\$754 00	\$458 00	\$171 00	\$687 72	\$6,789 00	\$15,255 00
2,235 00	610 00	451 00	153 00		6,789 00	5,228 00
2,200 00	592 00	449 00	142 00		3,156 00	
1,710 00	588 00	433 00	123 00		2,000 00	
1,666 00	560 00	430 00	118 00			
1,566 00	526 00	280 00	18 00			
1,220 00	500 00	266 00	56 00			
1,020 00	494 00	220 00	54 00			
918 00	493 00	190 00	45 00			
866 00	471 00					

WORCESTER COUNTY, SUPERIOR COURT — *Continued.*

SCHEDULE SHOWING AMOUNTS CLAIMED AND FINDINGS.

MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.
\$250 00 200 00 45 00	\$511 00 500 00	\$2,000 00 1,500 00	\$3,500 00 2,000 00

SCHEDULE SHOWING AMOUNTS CLAIMED AND VERDICTS.

OTHER TORTS — JURY SESSIONS.

<i>Amounts Claimed.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$1,853 00 600 00 500 00 400 00 316 00 300 00 259 00 150 00 30 00	\$1,500 00 1,500 00 1,000 00 450 00 400 00	\$3,875 00 1,500 00 1,000 00	\$4,416 00 1,585 00 1 00

SCHEDULE SHOWING AMOUNTS CLAIMED AND FINDINGS.

OTHER TORTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>		
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.
\$928 00 500 00 300 00 150 00	\$250 00	\$1,200 00 750 00

SCHEDULE SHOWING AMOUNTS CLAIMED AND VERDICTS.

CONTRACTS — JURY SESSIONS.

<i>Amounts Claimed.</i>				
\$3,000 or Less.				\$3,000 to \$5,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$2,445 00 2,432 00 1,717 00 1,157 00 1,092 00 635 00	\$600 00 584 00 579 00 567 00 500 00 465 00	\$401 00 280 00 248 00 176 00 152 00 140 00	\$97 00 82 00 77 00 73 00 54 00 25 00	\$695 00 345 00 123 00 72 00

WORCESTER COUNTY, SUPERIOR COURT — *Concluded.*

SCHEDULE SHOWING AMOUNTS CLAIMED AND FINDINGS.

CONTRACTS — JURY WAIVED SESSIONS.

Amounts Claimed.		
\$3,000 or Less.	\$3,000 or Less.	\$3,000 or Less.
FINDINGS.	FINDINGS.	FINDINGS.
\$2,080 00 1,633 00 922 00	\$725 00 476 00 441 00	\$141 00 125 00 105 00

HAMPDEN COUNTY, SUPERIOR COURT.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.

Jury	{Torts 132 (Contracts 29	Total 161
Jury Waived	{Torts 16 (Contracts 8	Total 24
Cases in both sessions, total		185

TORTS DISTINGUISHED.

Motor Vehicle Torts (not separated).

TABLE OF VERDICTS AND FINDINGS.

Contracts.

Verdict for	Finding for	
Jury {Plaintiff 20	Jury Waived {Plaintiff 5	
{Defendant 9	{Defendant 3	

TORTS.

Jury {Plaintiff 77	Jury Waived {Plaintiff 13
{Defendant 55	{Defendant 3

Other dispositions not reported.

SCHEDULE SHOWING AMOUNTS CLAIMED AND VERDICTS.

TORTS — JURY SESSIONS.

Amounts Claimed.

\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$1,310 00	\$250 00	\$5,000 00	\$4,000 00
1,183 00	250 00	2,500 00	4,000 00
1,100 00	250 00	1,584 00	3,700 00
1,100 00	150 00	1,511 00	3,555 00
1,083 00	150 00	1,000 00	3,000 00
895 00	150 00	1,000 00	1,381 00
840 00	123 00	813 00	1,282 00
779 00	100 00	550 00	1,139 00
757 00	100 00	345 00	1,139 00
660 00	100 00	214 00	1,100 00
500 00	100 00	200 00	960 00
500 00	100 00	100 00	500 00
475 00	100 00	25 00	365 00
450 00	75 00	5 00	3 00
430 00	65 00		
411 00	50 00		
325 00	25 00		
300 00	1 00		
300 00	1 00		

HAMPDEN COUNTY, SUPERIOR COURT — *Concluded.*

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDINGS.

TORTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>				
\$3,000 or Less.			\$3,000 to \$5,000.	\$5,000 to \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.
\$402 00 300 00 293 00	\$176 00 155 00 150 00	\$109 00 100 00 70 00	\$754 00 300 00	\$300 00 300 00

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

CONTRACTS — JURY SESSIONS.

<i>Amounts Claimed.</i>				
\$3,000 or Less.		\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$2,640 00 1,903 00 1,846 00 1,149 00 458 00 268 00 259 00	\$219 00 129 00 106 00 100 00 67 00 27 00	\$5,092 00 2,732 00 355 00 320 00 273 00	\$646 00	\$13,286 00

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDINGS.

CONTRACTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>				
\$3,000 or Less.				\$5,000 to \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.
\$1,082 00	\$510 00	\$481 00	\$12 00	\$186 00

BRISTOL COUNTY.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES—JURY AND JURY WAIVED SESSIONS.

Jury	Torts	64	Total	101
	Contracts	37		
Jury Waived	Torts	10	Total	19
	Contracts	9		

Cases in both sessions, total 120

TORTS DISTINGUISHED.

Jury	Motor Vehicle Torts	50	Jury Waived	Motor Vehicle Torts	9
	Other Torts	14		Other Torts	1

TABLE OF VERDICTS AND FINDINGS.

Contracts.

Verdict for	Finding for
Jury	Jury
Plaintiff	Plaintiff
Defendant	Defendant
27	6
10	3

MOTOR VEHICLE TORTS.

Jury	Plaintiff	29	Jury Waived	Plaintiff	8
	Defendant	21		Defendant	1

OTHER TORTS.

Jury	Plaintiff	8	Jury Waived	Plaintiff	1
	Defendant	6		Defendant	0

Other dispositions not reported.

SCHEDULE SHOWING AMOUNTS CLAIMED AND VERDICTS.

MOTOR VEHICLE TORTS—JURY SESSIONS.

Amounts Claimed.

\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$1,200 00	\$2,700 00	\$2,500 00	\$6,500 00
1,200 00	2,500 00	1,600 00	1,200 00
961 00	700 00	1,500 00	1,000 00
950 00	325 00	1,103 00	900 00
200 00	321 00	1,019 00	
150 00	200 00	1,000 00	
125 00	150 00	1,000 00	
107 00		225 00	
100 00			
100 00			

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDINGS.

MOTOR VEHICLE TORTS—JURY WAIVED SESSIONS.

Amounts Claimed.

\$3,000 or Less.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.
\$1,200 00	\$390 00	\$4,000 00
727 00	350 00	
415 00	107 00	

BRISTOL COUNTY — *Concluded.*

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

OTHER TORTS — JURY SESSIONS.

<i>Amounts Claimed.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$750 00 700 00 100 00	\$800 00	\$1,296 00	\$10,500 00 5,000 00 119 00

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDING.

OTHER TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed.</i>	
\$3,000 or Less.	
FINDING.	
\$190 00	

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

CONTRACTS — JURY SESSIONS.

Amounts Claimed.					
\$3,000 or Less.				\$3,000 to \$5,000.	\$5,000 to \$10,000
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$1,800 00	\$1,025 00	\$334 00	\$222 00	\$1,566 00	\$4,610 00
1,379 00	599 00	334 00	153 00		2,255 00
1,220 00	523 00	306 00	150 00		
1,150 00	494 00	278 00	111 00		
1,103 00	445 00	222 00	111 00		
1,067 00	445 00	222 00	12 00		

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDINGS.

CONTRACTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.	FINDINGS.
\$709 00 119 00	\$2,436 00 1,019 00	\$4,657 00	\$2,985 00

NORFOLK COUNTY, SUPERIOR COURT.
TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES—JURY AND JURY WAIVED SESSIONS.

<i>Jury</i>	{Torts	93	<i>Total</i>	129
	{Contracts	36		
<i>Jury Waived</i>	{Torts	12	<i>Total</i>	16
	{Contracts	4		
Cases in both sessions, total				145

TORTS DISTINGUISHED.

<i>Jury</i>	{Motor Vehicle Torts	70	<i>Jury Waived</i>	{Motor Vehicle Torts	11
	{Other Torts	23		{Other Torts	1

TABLE OF VERDICTS AND FINDINGS.

Contracts.

<i>Jury</i>	{Verdicts for Plaintiff	25	<i>Jury Waived</i>	{Findings for Plaintiff	3
	{Defendant	11		{Defendant	1

MOTOR VEHICLE TORTS.

<i>Jury</i>	{Plaintiff	32	<i>Jury Waived</i>	{Plaintiff	7
	{Defendant	38		{Defendant	4

OTHER TORTS.

<i>Jury</i>	{Plaintiff	9	<i>Jury Waived</i>	{Plaintiff	0
	{Defendant	14		{Defendant	1

Other dispositions not reported.

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

MOTOR VEHICLE TORTS—JURY SESSIONS.

Amounts Claimed.

\$3,000 or Less.	\$3,000 to \$5,000	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$2,000 00	\$1,500 00	\$3,000 00	\$5,200 00
808 00	1,000 00	2,500 00	3,250 00
600 00	900 00	2,000 00	3,250 00
439 00	700 00	1,350 00	2,250 00
439 00	500 00	800 00	1,200 00
300 00	350 00	750 00	
250 00	200 00	170 00	
182 00	100 00		
141 00	25 00		
100 00			
75 00			

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDINGS.

MOTOR VEHICLE TORTS—JURY WAIVED SESSIONS.

Amounts Claimed.

\$3,000 or Less.	\$5,000 to \$10,000.	Over \$10,000.
FINDINGS.	FINDINGS.	FINDINGS.
\$400 00	\$2,000 00	\$8,500 00
150 00	5,000 00	2,000 00
130 00		

NORFOLK COUNTY, SUPERIOR COURT — *Concluded.*

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

OTHER TORTS — JURY SESSIONS.

<i>Amounts Claimed.</i>				
\$3,000 or Less.		\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$1,750 00 700 00 463 00	\$400 00 3 00 1 00	\$500 00	\$1,946 00	\$1,800 00

OTHER TORTS — JURY WAIVED SESSIONS.

None.

CONTRACTS — JURY SESSIONS.

<i>Amounts Claimed.</i>					
\$3,000 or Less.		\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.	
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$2,556 00 1,556 00 1,364 00 906 00 738 00 646 00	\$554 00 553 00 355 00 318 00 314 00 294 00	\$238 00 194 00 150 00 104 00 100 00 71 00	\$3,865 00 2,806 00 2,024 00 100 00	\$3,650 00	\$2,500 00

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDINGS.

CONTRACTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>	
\$3,000 or Less.	\$5,000 to \$10,000.
FINDINGS.	FINDINGS.
\$317 00 234 00	\$250 00

PLYMOUTH COUNTY, SUPERIOR COURT.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES—JURY AND JURY WAIVED SESSIONS.

Jury	(Torts	51	Total	63
	(Contracts	12		
Jury Waived	(Torts	3	Total	9
	(Contracts	6		
Cases in both sessions, total				72

TORTS DISTINGUISHED.

<i>Jury</i>	Motor Vehicle Torts	35	<i>Jury Waived</i>	Motor Vehicle Torts	2
	Other Torts	16		Other Torts	1

TABLE OF VERDICTS AND FINDINGS.

Contracts.

<i>Jury</i>	Verdicts for Plaintiff	7	<i>Jury Waived</i>	Findings for Plaintiff	4
	Defendant	5		Defendant	2

MOTOR VEHICLE TORTS.

<i>Jury</i>	Plaintiff	17	<i>Jury Waived</i>	Plaintiff	2
	Defendant	18		Defendant	0

OTHER TORTS.

<i>Jury</i>	Plaintiff	4	<i>Jury Waived</i>	Plaintiff	1
	Defendant	12		Defendant	0

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

CONTRACTS—JURY SESSIONS.

Amounts Claimed.

\$3,000 or Less.		\$3,000 to \$5,000.
VERDICTS.	VERDICTS.	VERDICTS.
\$632 00 302 00 207 00	\$200 00 101 00 70 00	\$4,081 00

MOTOR VEHICLE TORTS—JURY SESSIONS.

Amounts Claimed.

\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$600 00 500 00 225 00 175 00 160 00 100 00	\$1,000 00 75 00	\$9,000 00 4,000 00 2,750 00 1,500 00 500 00 180 00	\$3,000 00 1,500 00 1,100 00

PLYMOUTH COUNTY, SUPERIOR COURT — *Concluded.*
 SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS — *Concluded.*

OTHER TORTS — JURY SESSIONS.

<i>Amounts Claimed.</i>	
\$3,000 or Less.	\$3,000 to \$5,000.
VERDICTS.	VERDICTS.
\$200 00 150 00	\$1,500 00 200 00

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDING.

CONTRACTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>
\$3,000 or Less.
FINDINGS.
\$2,028 00 370 00 332 00 300 00

MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>
\$3,000 or Less.
FINDINGS.
\$393 00 166 00

OTHER TORTS — JURY WAIVED SESSIONS.

<i>Amount Claimed.</i>
\$3,000 or Less.
FINDING.
\$75 00

BERKSHIRE COUNTY, SUPERIOR COURT.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES—JURY AND JURY WAIVED SESSIONS.

<i>Jury</i>	{Torts	12	Total	20
	{Contracts	8		
<i>Jury Waived</i>	{Torts	4	Total	7
	{Contracts	3		
Cases in both sessions, total				27

TORTS DISTINGUISHED.

<i>Jury</i>	{Motor Vehicle Torts	7	<i>Jury Waived</i>	{Motor Vehicle Torts	4
	{Other Torts	5		{Other Torts	0

TABLE OF VERDICTS AND FINDINGS.

Verdicts		Contracts.	Findings		
<i>Jury</i>	{Plaintiff	7	<i>Jury Waived</i>	{Plaintiff	2
	{Defendant	1		{Defendant	1

MOTOR VEHICLE TORTS.

<i>Jury</i>	{Plaintiff	4	<i>Jury Waived</i>	{Plaintiff	2
	{Defendant	3		{Defendant	2

OTHER TORTS.

<i>Jury</i>	{Plaintiff	2	<i>Jury Waived</i>	{Plaintiff	0
	{Defendant	3		{Defendant	0

Other dispositions not reported.

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

MOTOR VEHICLE TORTS—JURY SESSIONS.

Amounts Claimed.

\$3,000 or Less.	\$3,000 to \$5,000.
VERDICTS.	VERDICTS.
\$500 00 333 00 67 00	\$2,500 00

OTHER TORTS—JURY SESSIONS.

Amounts Claimed.

Over \$10,000.
VERDICTS.
\$5,616 00 1,044 00

BERKSHIRE COUNTY, SUPERIOR COURT — *Concluded.*

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDINGS.

MOTOR VEHICLE TORTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>	
\$3,000 or Less.	
<i>FINDINGS.</i>	
\$219 00 101 00	

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

CONTRACTS — JURY SESSIONS.

<i>Amounts Claimed.</i>			
\$3,000 or Less.		\$3,000 to \$5,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$586 00 165 00	\$134 00 127 00	\$2,320 00	\$15,514 00 3,345 00

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDINGS.

CONTRACTS — JURY WAIVED SESSIONS.

<i>Amounts Claimed.</i>	
\$3,000 or Less.	
<i>FINDINGS.</i>	
\$505 00 106 00	

HAMPSHIRE COUNTY, SUPERIOR COURT.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.

JURY AND JURY WAIVED SESSIONS.		JURY AND JURY WAIVED SESSIONS.	
Jury	{Torts 22	Total	30
	{Contracts 8		
Jury Waived	{Torts 1	Total	1
	{Contracts 0		
Cases in both sessions, total			31

TORTS DISTINGUISHED.

<i>Jury</i>	{Motor Vehicle Torts	11	<i>Jury Waived</i>	{Motor Vehicle Torts	1
	{Other Torts	11		{Other Torts	0

TABLE OF VERDICTS AND FINDINGS.

Contracts.

Verdicts		Findings	
<i>Jury</i>	{Plaintiff	4	<i>Jury Waived</i> (None)
	{Defendant	0	

MOTOR VEHICLE TORTS.

<i>Jury</i>	{Plaintiff	3	<i>Jury Waived</i>	{Plaintiff	1
	{Defendant	2		{Defendant	0

OTHER TORTS.

<i>Jury</i>	{Plaintiff	5	<i>Jury Waived</i>	(None)
	{Defendant	5		

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

CONTRACTS — JURY SESSIONS.

Amounts Claimed.

\$3,000 or Less.

VERDICTS.	VERDICTS.
\$2,984 00	\$200 00
1,700 00	139 00

MOTOR VEHICLE TORTS — JURY SESSIONS.

Amounts Claimed.

\$3,000 or Less.	\$5,000 to \$10,000.
VERDICTS.	VERDICTS.
\$500 00	\$350 00
470 00	

HAMPSHIRE COUNTY, SUPERIOR COURT — *Concluded.*

SCHEDULE SHOWING AMOUNT CLAIMED AND FINDING.

MOTOR VEHICLE — JURY WAIVED SESSIONS.

Amount Claimed.	
	\$3,000 to \$5,000.
FINDING.	
	\$3,725 00

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

OTHER TORTS — JURY SESSIONS.

Amounts Claimed.		
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.
\$1,000 00 50 00	\$2,250 00 1,300 00	\$1,577 00

OTHER DISPOSITIONS.

Torts.		Contracts.
Settled	7	Settled 2
		Disagreements 2

FRANKLIN COUNTY, SUPERIOR COURT.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES — JURY AND JURY WAIVED SESSIONS.

Jury	{Torts	17	Total	30
	{Contracts	13		
Jury Waived	{Torts	0		
	{Contracts	0		

Cases in both sessions, total 30

TORTS DISTINGUISHED.

Jury	{Motor Vehicle Torts	13	Jury Waived	{Motor Vehicle Torts	0
	{Other Torts	4		{Other Torts	0

TABLE OF VERDICTS AND FINDINGS.

Verdicts		Contracts.	Findings
Jury	{ Plaintiff	10	Jury Waived 0
	{ Defendant	3	

MOTOR VEHICLE TORTS.

Jury	{Plaintiff	2	Jury Waived	0
	{Defendant	11		

OTHER TORTS.

Jury	{Plaintiff	2	Jury Waived	0
	{Defendant	2		

FRANKLIN COUNTY, SUPERIOR COURT — *Concluded.*

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

CONTRACTS — JURY SESSIONS.

<i>Amounts Claimed.</i>				
\$3,000 or Less.			\$3,000 to \$5,000.	\$5,000 to \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$817 00 520 00 430 00	\$325 00 298 00 257 00	\$100 00 76 00	\$65 00	\$5,221 00

MOTOR VEHICLE TORTS — JURY SESSIONS.

<i>Amounts Claimed.</i>	
\$3,000 or Less.	
VERDICTS.	
\$350 00 1 00	

OTHER TORTS — JURY SESSIONS.

<i>Amounts Claimed.</i>	
\$3,000 or Less.	
VERDICTS.	
\$200 00 110 00	

Other dispositions not reported.

Contracts.

2
2

30

30

0
0

0

0

0

BARNSTABLE COUNTY, SUPERIOR COURT.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES—JURY AND JURY WAIVED SESSIONS.					
Jury	{Torts	. . . . .	2	Total	. . . . . 0
	{Contracts	. . . . .	4		
Jury Waived	{Torts	. . . . .	0	Total	. . . . . 0
	{Contracts	. . . . .	0		
Cases in both sessions, total 6					

TORTS DISTINGUISHED.					
<i>Jury</i>	{Motor Vehicle Torts	1	<i>Jury Waived</i>	{Motor Vehicle Torts	0
	{Other Torts	1		{Other Torts	0

TABLE OF VERDICTS AND FINDINGS.					
Verdicts			Findings		
<i>Contracts.</i>					
<i>Jury</i>	{Plaintiff	4	<i>Jury Waived</i>	{Plaintiff	0
	{Defendant	0		{Defendant	0

MOTOR VEHICLE TORTS.					
<i>Jury</i>	{Plaintiff	1	<i>Jury Waived</i>	{Plaintiff	0
	{Defendant	0		{Defendant	0

OTHER TORTS.					
<i>Jury</i>	{Plaintiff	0	<i>Jury Waived</i>	{Plaintiff	0
	{Defendant	1		{Defendant	0

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

CONTRACTS—JURY SESSIONS.

Amounts Claimed.			
\$3,000 or Less.	\$3,000 to \$5,000.	\$5,000 to \$10,000.	Over \$10,000.
VERDICTS.	VERDICTS.	VERDICTS.	VERDICTS.
\$332 00	\$285 00	\$3,807 00	\$3,656 00

MOTOR VEHICLE TORTS—JURY SESSION.

Amount Claimed.	
Over \$10,000.	
VERDICT.	
\$3,875 00	

D. 144.

COUNTY OF DUKES COUNTY, SUPERIOR COURT.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

TORT AND CONTRACT CASES—JURY AND JURY WAIVED SESSIONS.					
Jury	Torts	.	.	.	1
	Contracts	.	.	.	1
Jury Waived	Torts	.	.	.	0
	Contracts	.	.	.	0
Total					2
Total					0
Cases in both sessions, total					2
Motor vehicle torts not reported.					

TABLE OF VERDICTS AND FINDINGS.					
Contracts.					
Verdicts Jury	Plaintiff	.	.	.	1
	Defendant	.	.	.	0
Torts.					
Jury	Plaintiff	.	.	.	1
	Defendant	.	.	.	0

SCHEDULE SHOWING AMOUNT CLAIMED AND VERDICTS.

CONTRACT—JURY SESSIONS.

Amount Claimed.	
\$3,000	
or	
Less.	
VERDICT.	
\$1,920 00	
TORTS—JURY SESSIONS.	
Amount Claimed.	
\$3,000	
or	
Less.	
VERDICT.	
\$200 00	

Other dispositions not reported.

NANTUCKET COUNTY, SUPERIOR COURT.

TRIAL RECORD FOR YEAR ENDING JUNE 30, 1928.

One case reported, Contract, Jury Waived Session, Ad Damnum \$63.00. Finding for plaintiff not shown.

Study of Law Entries in Essex County Superior Court showing motor vehicle cases for the period beginning with October, in 1926, to and including the month of February, in 1927.

Original entries and removals	Total.
	865

Motor vehicle cases, 3 (including 23 removals)	Total.
	330

Classified and enumerated as follows:

Personal injuries	Total.
Property damage	180
Personal injury and property damage	60
Death cases	56
Suits by husbands and fathers for loss of services, medicine, etc.	17

Suits by guests against others	Total.
" " guests against their hosts	47
" " members of licensed or registered motorist family	7
" " employees of licensed or registered motorist family	50
" " passengers in taxicabs	3
" " passengers in street cars	0
" " passengers in omnibus	1
" " pedestrians	0
" " bicyclists	69
" " those in horse-drawn vehicles	2
personal injury suits by owners and operators	5
	12

Cases tried	Total.
" pending	40
" appealed	115
" settled	11
	164

TABLE OF AMOUNTS CLAIMED IN WHITS.

\$500 or less	39
500 to \$1,000 incl.	56
1,000 " 2,000 "	45
2,000 " 3,000 "	36
3,000 " 4,000 "	4
4,000 " 5,000 "	75
5,000 " 10,000 "	50
Over 10,000	25

Collision cases involving two or more automobiles, but not including horse-drawn vehicles, street car, railroads, bicycles, suits by pedestrians; for expenses, etc.	214
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ENTRIES IN PROBATE COURTS FOR THE YEAR 1927.

	Probate.	Divorce.
Suffolk (including insane cases)	6,063	1,332
Middlesex	5,070	985
Essex	3,148	544
Worcester	2,843	530
Bristol	1,784	393
Norfolk	1,738	221
Hampden	1,350	11
Plymouth	1,090	93
Berkshire	749	134
Hampshire	452	40
Barnstable	410	60
Franklin	395	45
Dukes	65	10
Nantucket	51	6
	25,208	4,404

NUMBER OF CASES TRIED AND DISPOSED OF BY SUFFOLK PROBATE COURT FOR YEAR 1927 WERE AS FOLLOWS:

January	220
February	207
March	242
April	226
May	246
June	188
July	163
August	26
September	161
October	208
November	206
December	229
Total	2,322

NOTE: This is the only Probate Court that sits every month in the year.

DETAILS OF BUSINESS OF THE SUFFOLK COUNTY PROBATE COURT.

Total number of papers recorded in 1927, 35,842, as follows:

Wills	1,270	Letters to For. Guard.	
Probate		Petn.	
Petn.	1,098	Decree	
Decree	1,098	Letter	
Bond	1,187	Trust	
Letter	1,064	Petn.	419
For. Will		Decree	419
Petn.	46	Bond	545
Decree	46	Letter	415
Bond	48	Sales of R. E. Ex. or Adm., Pub.	
Letter	40	Petn.	9
Adm. w. a.		Decree	9
Petn.	127	License	9
Decree	127	Sales of R. E. Ex. or Adm., Private	
Bond	119	Petn.	189
Letter	116	Decree	189
Adm. w. a. d. b. n.		License	195
Petn.	63	Sales of Adm.	
Decree	63	Petn.	130
Bond	55	Decree	130
Letter	54	License	130
Administrations		Sales of Guard., Maint., Public	
Petn.	2,243	Petn.	
Decree	2,243	Decree	
Bond	2,077	License	
Letter	2,068	Sales of Guard., Maint., Private	
Special Adm.		Petn.	42
Petn.	57	Decree	42
Decree	57	License	42
Bond	54	Sales of Guard., Inv'm't, Public	
Letter	52	Petn.	6
Public Adm.		Decree	6
Petn.	117	License	6
Decree	117	Sales of Guard., Inv'm't, Private	
Letter	117	Petn.	44
Adm. d. b. n.		Decree	44
Petn.	47	License	44
Decree	47	Sales, Personal Estate	
Bond	43	Petn.	41
Letter	42	Decree	41
Guard. of Minor		Sales, Trust Estate	
Petn.	539	Petn.	36
Decree	539	Decree	36
Bond	487	Sales, Commissioners	
Letter	485	Petn.	
Guard. Insane		Decree	
Petn.	201	Bond	
Decree	201	Warrant	
Bond	176	Return	
Letter	176	Foreign Sales	1
Guard. Spend.		Affidavit of Sale	214
Petn.	7	Affidavit of Notice of Appt.	
Decree	7	Adms.	1,662
Bond	6	Exrs.	964
Letter	6	Will Annexed	156
Conservator		New Notice	198
Petn.	101	New Bond	83
Decree	101	Mortgage	100
Bond	95		
Letter	92		
Personal Liberty of Minor Child			
Habeas Corpus, Petition for Writ			

DETAILS OF BUSINESS OF THE SUFFOLK COUNTY PROBATE COURT — *Concluded.*

Discharge of Surety	6	Disallowance of Codicil	
Partition		Amend. of Record	112
Ptn.	57	Decree Dismissing	2
Decree	59	Compromise	42
Warrant	55	Compromise under Will	
Return	50	Ptn.	7
Bond	37	Agreement	7
Distribution		Decree	7
Ptn.	74	Leave to Lease	6
Decree	75	Payment of Deposit	51
Warrant	57	Release of Dower	15
Return	60	Release of Curtesy	2
Commissioners' Sales		Suit on Bond	5
Ptn.		Reappraisal	
Decree		Extension of Time	4
Warrant		Insolvency	1
Bond		Reduction of Bond	2
Return		Leave to Pay Debts, Sp. Admr.	10
Adoption	242	Carry on Business	22
Surrenders	12	Care, Burial Lot	13
Change of Name	127	Leave to Erect Monument	6
Certificate	2	Sale (con't), rem. (vested)	
Discharge from Guard.	20	Ptn.	9
Discharge of Surety	22	Decree	9
Representation in Insolvency		Bond	9
Rep.	23	Mortgage (<i>Ibid.</i>)	
Decree	23	Leave to Deposit	110
Warrant	22	Payment of Counsel Fees	
Return	16	Bond of Heir	
Distn.	18	Specific Performance	2
Allowance to Widow	59	Dismissal of Appeal	2
Removal	30	Tax Receipts	20
Resignation	86	Absentee	
Separate Support	85	Ptn.	6
Desertion	23	Decree	7
Contempt	3	Bond	7
Custody of Minor	18	Letter	6
Execution	15	Warrant	6
Accounts		Release of Curtesy	3
Guard.	488	Dower	3
Trust.	1,405	Bill of Review	
Adm.	1,010	Ptn. and Decree to Transfer Case to Another Jurisdiction	14
Exrs.	575	Receipt of Register (<i>Ibid.</i>)	14
Inventories		Designation of Judge	65
Guard.	506	Appointments of Officers	
Trust.	268	Power of Attorney	19
Adm.	2,222	Receipts	70
Exrs.	880	Statement of Public Admr.	3
Gen'l Petitions	359	Extra Bonds	39
Releases, etc., Powers of Attorney, Inden- tures, etc.	4	Total	35,842
Copies of Decrees	3		
S. J. C. and S. C.	1		
Equity, Decrees	79		
Waivers	15		
Determination of Value	15		
Affidavits	26		
License to Minor to Marry	42		
Disallowance of Will			

MUNICIPAL COURT OF THE CITY OF BOSTON, FOR CIVIL BUSINESS.
Summary for 1927.

	Entered.	Removed to Superior Court.	DEPT. D. CLERK.		DEPT. D. COURT.		INTS. FILED.		MARKED FOR —		TRIAL LISTS.				FINDINGS.		APPELLATE DIVISION.							
			Non-Appearence.	Non-Answer.	Non-Appearence.	Non-Answer.	To Plaintiff.	To Defendant.	Motion List.	Trial List.	Non-Suits.	Defaults.	Tried.	Reserved.	For Plaintiff.	For Defendant.	Requests for Re- port.	Reports Allowed.	Reports Disallowed.	Petitions to Establish.	Reports Proved.	Cases Heard.	Cases Decided.	
Contract	28,346	1,099	11,254	50	244	907	474	2,717	—	—	—	—	1,927	605	1,412	532	210	102	7	7	1	78	82	
Tort	6,812	203	254	2	8	97	1,241	671	—	—	—	—	1,255	469	639	535	69	19	8	8	1	15	15	
All others	867	1	273	1	4	4	—	—	—	—	—	—	160	31	124	32	25	11	1	1	1	11	9	
Totals	36,025	1,303	11,781	53	266	1,008	1,715	3,388	12,803	24,634	492	4,539	3,342	1,105	2,175	1,099	304	132	15	15	1	104	106	

Summary for 1927—Concluded.

	APPELLATE DIVISION — Concluded.								DEFENDANTS' JUDGMENTS.				PLAINTIFFS' JUDGMENTS.							Original Executions Issued.	Executions Renewed.	
	Affirmed.	Reversed.	Modified.	Entire Re-trial Ordered.	Partial Re-trial Ordered.	Motions.	Appeals to Supreme Judicial Court.	Appeals to Supreme Judicial Court Perfecting.	Appointed to Superior Civil Court.	Entered on Non-Suit.	Entered on Trial — Open Court.	Entered on Trial — After Reservation.	Total Defendants' Judgments.	Entered on Default.	Entered on Trial — Open Court.	Entered on Trial — After Reservation.	Entered by Agreement.	Total Plaintiffs' Judgments.	Amount of Plaintiffs' Judgments.			Average Amount of Plaintiffs' Judgments.
Contract	60	6	3	7	1	38	44	12	—	298	227	211	736	15,793	951	297	3,037	20,078	\$3,105,358 83	\$137 65	16,925	181
Tort	11	2	1	1	—	18	16	8	—	272	288	183	743	4	393	198	2,493	3,088	405,287 79	131 24	1,286	3
All others	7	1	—	1	—	—	3	1	—	6	12	13	31	241	94	14	26	375	8,966 79	23 91	356	2
Totals	84	9	4	9	1	56	63	21	4	576	527	407	1,510	16,038	1,438	509	5,556	23,541	\$3,579,613 41	\$152 05	18,567	186
Entries over \$2,000 ad damnum:																						
Contract 650																						
Contract or tort 47																						
Tort 1,050																						
Others 2																						
Total 1,749																						
Appealed to Supreme Judicial Court — Affirmed:																						
Contract 5																						

MUNICIPAL COURT OF THE CITY OF BOSTON, FOR CIVIL BUSINESS — *Concluded.*
Small Claims Summary, 1927.

	Actions Entered.	Reported as Settled out of Court.	Amount of Piffs,' Claims.	Notices Mailed to Defts.	Notices Returned, Accompanie Returned.	Notices Returned, Unable to Locate.	Notices to Piffs.	Counter-Claims or Set-offs.	Amount of Counter-Claims or Set-offs.	ANSWERS.		Settled in Court before Hearing.	Hearings.	Settled in Court after Hearing.	Reserved.	Dismissals.	Transferred for Trial.	Removed to Superior Court.	Referred to Appellate Division.
										Defendants.	Plaintiffs.								
Contract	1,096	129	\$19,431 62	1,155	1	75	10	10	\$180 98	394	8	52	378	42	1	2	1	5	1
Tort	89	7	2,055 70	89	—	1	—	—	—	47	—	4	41	1	—	1	—	1	1
Totals	1,185	136	\$21,487 32	1,244	1	76	10	10	\$180 98	441	8	56	419	43	1	2	1	5	—

	JUDGMENTS.								Neither Party.	Counter-Claims Dis- missed.	Counter-Claims Dis- allowed.	P l f f s , Exons. (Original.)	Defts , Exons. (Original.)	P l f f s , Alias Exon.
	Entered on Default.	Entered on Non-Suits.	Entered on Hearings.	Total P l f f s , Judgments.	Amount P l f f s , Judgments.	Total Defts , Judgments.	Amount Defts , Judgments.	Judgments Va- cated.						
Contract	351	17	378	649	\$12,545 58	97	\$7 50	1	17	1	2	348	1	4
Tort	6	6	41	36	658 51	17	-	-	1	-	1	8	1	1
Totals	357	23	419	685	\$13,204 09	114	\$7 50	1	18	1	3	356	1	4

CRIMINAL STATISTICS OF THE MUNICIPAL COURT OF THE CITY OF BOSTON.

(For Years ending September 30, 1925, 1926, 1927, 1928.)

DATE.	Criminal Cases Pending at Beginning of Year.	Criminal Cases Begun During Year.	Discharged, Not-crossed, Dismissed, Placed on File before Trial.	PLEAS.		FINDINGS.			Sentences Appealed to Superior Court.
				Guilty.	Not Guilty.	Guilty.	Not Guilty.	Bound Over.	
1925 . . .	48	38,235	1,726	14,978	7,924	21,459	1,443	368	1,683
1926 . . .	189	39,197	1,806	14,281	7,515	20,333	1,463	454	1,665
1927 . . .	100	40,734	1,561	18,069	6,252	22,690	1,254	605	1,645
1928 . . .	54	47,598	5,489	23,624	6,255	28,102	1,171	673	1,986

MOTOR VEHICLE OFFENCES IN THE BOSTON MUNICIPAL CRIMINAL COURT.

	1928.		1926.	
	Summons Issued.	Appealed.	Summons Issued.	Appealed.
Violation of automobile law . . .	3,916	339	1,223	121
Violation of traffic rules . . .	11,942	150	7,449	89

TON.

TRIAL JUSTICES.

CRIMINAL CASES BEFORE TRIAL JUSTICES FOR THE YEAR SEPT. 30, 1927, TO
SEPT. 30, 1928.

Sentences
Appealed
to
Superior
Court.

1,683

1,665

1,645

1,986

URT.

pealed.

121

89

	Pending at Close of Sept. 30, 1927.	Brought During the Year.	Number of Cases Appealed.	Number of Cases Bound Over to Grand Jury.	Number Pending Sept. 30, 1928.
Charles J. Stone, Andover	0	125	6	17	0
Moses S. Case, Marblehead	3	142	0	5	6
Walter H. Southwick, Nahant	0	311	6	2	0
William E. Ludden, Saugus	1	459	17	7	19
Cornelius J. Mahoney, North Andover	22	83	2	10	11
George B. Haas, Ludlow	0	406	3	13	1
Daniel J. Riley, Hopkinton	0	14	0	0	0
Fred E. Morris, Hudson	0	151	1	5	0
John L. Smith, Barre	0	68	4	1	0
Dennis J. Healey, Hardwick	0	40	2	0	1
Total	26	1,799	41	60	32

DETAILS OF CRIMINAL BUSINESS OF THE MUNICIPAL COURT OF THE CITY OF BOSTON.

Totals	1927	1928
	42552	49534
No. of warrants issued to search for Stolen Property	1927	1928
Registered Vessels	8	12
Prostitutes	1	0
Firearms	34	10
Obscene Literature	1	3
Drugs	107	120
Abortion Implements	2	3
Gaming Apparatus, etc.	193	196
Intoxicating Liquors	1346	1436
Number of Inquests Held	122	143
Abandoning Child	2	3
Abuse of Female Child	29	126
Assault, Felonious	50	55
Assault, Minor	593	850
Assault, Dangerous Weapon	5	52
Conspiracy	47	45
Kidnapping	1	0
Libel	18	19
Manlaughter	0	0
Mayhem	9	10
Murder	12	5
Rape and attempt	89	99
Robbery and attempt	35	61
Threats	4	1
Threats to extort	1	0
Arson	136	129
Breaking and Entering and Larceny	35	47
Breaking Glass	19	11
Burglarious Implements, having in possession	0	0
Burning Buildings	56	58
Destroying and Injuring Property	242	320
Evading Fare	61	72
Fraud, Cheating and False Pretenses	1850	2134
Larceny	162	181
Larceny of Automobile	1	3
Mortgaged or Leased Property, concealing, conveying or selling	64	67
Receiving Stolen Goods	41	32
Trespass	8	2
Unlawful Taking	3	2
Abduction	7	2
Abortion	31	39
Accosting Female	56	96
Adultery	21	24
Affray	1	0
Anarchy	2	1
Alcohol Laws	5	6
Auction Laws	4	3
Blue Sky Laws	1	3
Building Laws, violating	1	0
Blasphemy	3	4
Business, not filing certificate	4	1
Bribery	2	1
Bucket Shop	522	261
City Ordinances or town by-laws, violating	88	56
Common Nightwalker	93	87
Common Nuisance, keeping	12	27
Contempt of Court	5	0
Counterfeiting	19	8
Cruelty to Animals	3	4
Cigarette Laws	7	2
Disorderly Conduct on Public Conveyance	2	3
Common Drunkard	3	14
Disorderly House, keeping	1	0
Disturbing Funeral Procession	29	28
Disturbing the Peace	22	13
Dog, keeping Unlicensed	18698	20513
Drunkenness	0	1
Escape	0	0
False Alarm of Fire	0	0
Food Laws, violating	59	48
Forgery and Uttering	216	429
Fornication	80	107
Fugitive from Justice	9	3
Fire Prevention Laws	1	1
Flag Laws	4	5
False Answer to City Registrar	1287	705
Gaming, and present at	14	20
Glass in Street	45	36
Health Laws, violating	1	0
House of Ill-fame, keeping	10	6
Hawker and Pedler	2	0
Heat and Rent Laws		

DETAILS OF CRIMINAL BUSINESS OF THE MUNICIPAL COURT OF THE CITY OF BOSTON — *Concluded.*

	1927	1928
Idle and Disorderly	1927	1928
Incest	189	208
Indecent Exposure	2	2
Immoral Solicitation	45	52
Itinerant Pedler	6	0
Illegitimate Child	3	6
Junk Laws	91	64
Labor Laws, violating	7	1
Lewd Cohabitation	85	91
Lewdness	170	213
License or Registration Laws, violating	21	28
Liquor Laws, violating	18	13
Lord's Day, violating	1529	1580
Lottery and Advertisement	531	542
Misleading Advertisement	91	136
Milk Laws	13	3
Minors, Admitting to places of amusement, etc.	43	61
Motor-vehicle Laws, violating	1	1
Motor-vehicle, Unlawful use of	1887	3916
Narcotic Drug Laws, violating	42	75
Nonsupport	153	278
Obscenity and Obscene Publications	324	330
Officer, Assuming to be	9	9
Officer, Obstructing	5	0
Occupying Street	2	1
Park Laws, violating	681	584
Perjury	91	39
Polygamy	5	9
Profanity	7	6
Runaway	59	67
Railroad Laws, violating	18	17
Riot	6	5
School Laws, violating	11	3
Sodomy	55	31
Stubbornness	8	6
Soliciting for an Attorney	12	6
Traffic Laws, violating	1	0
True Name Laws	9220	11942
Tramp	55	130
Unnatural Act	10	10
Unregistered Bondsman	16	21
Vagabond	1	0
Vagrancy	11	23
Weapons, carrying	101	71
Weight and Measure Laws, violating	92	66
White Slave Laws, violating	14	5
	68	66
Miscellaneous:		
Common Railer and Brawler		4
Cheat at Common Law		1
Election Law		1
Fish and Game Laws		2
Gas and Electricity Laws		3
Obstructing Justice		1
Refusing to Assist Officer		1
Runaway		17
Rescue		4
Spit Law		2
Selling Air-gun to a Minor		2

TABLE RECEIVED FROM MASSACHUSETTS REGISTRY OF MOTOR VEHICLES.

Motor vehicle fatalities for fiscal year 1927	693
Persons injured for fiscal year 1927	31,721
Fatalities for first 6 months, fiscal year 1928	279
Persons injured for first 6 months, fiscal year 1928	16,373

REGISTRATIONS TO SEPTEMBER 1, 1928.

Passenger cars	718,760
Commercial cars	92,037
Bus	1,672
Trailer	529
Motorcycles	6,029
Original licenses to September 1, 1928	78,622





